G. R. S. App. F. [X-4]

1937
~~19~~ 7-

File No. 151-37.

Serial Nos. 1-19.

Previous References.
Home 137-34-1-2
" 7.0-21½-242a, 246.6.
5-052-19½ 142, 253.
25-1896.97. See II
Later References
Mus 56-48-1-6

GENERAL AND REVE

Serial Nos. 19 13

Part B for April 1943.

SUBJECT. Appeal against the order of the Inam Rai terminating in the matter of the hereditary rights claimed by those in respect of certain A. Nos in Rapai-yania Nadhapalle, Kalahasti taluk

R. 8012-3 / Inam dated 19.5.1943.

To the Inam Rai & Commissioner
Settlement Commissioner, Ste. —

Issues arising on the appeal —

GENERAL AND REVENUE SECRETARIAT.

(Mysore)

NOTES.

File No. 157-37

FILE HEADING

Appeal in the matter of the lease sale of certain Survey Numbers in Nagaiyanakoppalu - Channarayapatna.

FROM B.P. Bhujabalaiya and eight others of Sravanabelagola Hobli.

No. — Dated 16.11.37 Received 17.11.37

Diary No. 650 | Enclos. 8 Spare copies | Serial No. 1

BRIEF ABSTRACT OF LETTER

Appeal against the order of the Mysore Commissioner in the matter of the tenancy rights claimed by them in respect of certain S. Nos in Nagaiyanakoppalu belonging to Sri Sravanabelagola Mutt

NOTES AND ORDERS.

Memo 2

Petition of 16/11/37 from the same ryots praying for a stay of the order passed by the Mysore Commissioner

The appellants claim tenancy rights in respect of S. Nos 249-50, 252-3, 253-6, 257-9, 261, 265, 267-9 of Nagaiyanakoppal, Sravanabelagola Taluk - The list of villages in the State (inside foolscap) docketed

NOTES—First Sheet

WD 0245—GPB—2,500—23-8-32

Appeal against the M.C's order in respect of certain N.Os in Nagaigana Koppala belonging to Jain Inst

File No. 151 of 193 General and Revenue Secretariat

Certain Nagaigana Koppala Villages under Sravanabelagola Hobli.

2. From the Original Register Channarayapatna TK (PP 2-5) it is seen that the Jain Inst has been endowed with the following Devadaya Sarvamanya Villages :—

Sravanabelagola	Sarvamanya
Hosahalli	"
Vallenahalli	Do —
Kabbalalu	Do —

There is no mention of Nagaigana-Koppal in the Cowl order No 1726—728 of 6/6/1889 to which there is a reference at the outset of para 3 of P. & D I

3. In the absence of the connected records it is difficult to find out when the above said S. Nos were granted as Inam to the Mutt.

In view of the points urged in paras 2, 3 & 4, the request for a Stay order is for orders —

4. If appeal, P. & D I will be ordered to M.C. for submn of entire with a report on the points raised in the appeal. The appellants state that the lands are situated in Nagayyankoppal. The enquiry Court may be requested to report whether the lands are in Sravanabelagola or Nagayyan Koppal, and

ing to the gain matt at Sravana Sdagora.

Serial No.

and whether any village called Nagarajan Koppal exists now, as no such village is found in the list of villages in the State.

5. As regards the grant of a stay order, the Sub-Dvn. officer has held that the lands belong to the matt and has refused to recognize their ownership of the lands and even their claim to Kadim tenancy in the lands. The Dy. Comr., Haveri D.t., has confirmed the Sub-Dvn. officer's order and withdrawn a stay order granted by him in this case. The Inspl Comr. states in his order that no appeal lies in this case and has rejected the appeal of the petitioners. It is therefore a point under whether there is any necessity for the grant of a stay order in this case.

17.11.37.

6) The records may be called for with a report. As the learned advocate that they have been in possession & have raised crops on the

* Please see the reverse of flag K.

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

4) Appeal against the m-ce order in respect of certain S. Nos in Nagaiyana Kottapalli belonging to Jain Mutt – Sravanabelagola.

1/113 File No. 151. of 1937-8

General and Revenue Secretariat

Boards, the order appealed against is hereby revoked from date thereof.

Sd/-
15/11

Sd/- Illegible

7) The records may be called for. No need to pass stay order

Sd/-
1/11/37 Sd/- Illegible

8) Memo of ~~forwarded~~ to m.c. for such as P.A.D.T is for kind signature –

Sd/-
9) Sd/- Illegible
2/11/37

To. The Revenue Commissioner
No 829 § 2-12-37.

3

For the petitioner is to for submissions entire records connected with the case.

10) For order if a date may be fixed after negotiating the matter for [illegible]

Sd/- Illegible

Simultaneously 29.11.37 from the Swamigalu of Sravanabelagola Mutt requesting that the appellants may not be given a stay order as prayed for by them.

4

GENERAL SECRETARIAT
19 NOV. 1937
2825

Serial No.

The Respdts in this case have been under the Management of Govt. from a long time. No stay order has been granted (Refer para 7 supra).

Submitted for perusal.

Sd/-
Gen: Secy

7/12/37

14) Issue
8/12

GENERAL SECRETARY
7 DEC. 1937
3958

5 Petition of 8/12/37 from the Managing Director of the Bavanbelagola Brass Industries & Copper Works Co. Ltd. Stating that S. Nos 253 and 257 of Nagenayakana Hobli have been sold in Court auction for the moneys due by one Bhujabalaiya & the Company and that the Company is taking action in regard to S. Nos 258 & 268 of the same Village for the money due by one Ramaiya - requesting that the lease sale of these lands may be held in abeyance pending Confirming the Sale.

15) Records have been called for; no stay order has been given in respect by the Applicants. In the meantime the Company affd w in the P. and has requested that the lease sale of S. Nos 253 & 257, & 258-268 may not be effected — This request is for orders.

NOTE—Contn. Sheet.

WD 0261—GPB—30,000—13-8-37

6) 7th Aforesaid — cc: Sravanabelagola matt lands in Nagaryana Kuppale Village.

Mag File No. 151 of 1937-8 | General and Revenue Secretariat

16) In para 3 of G.O. No. 1426-72 of 6.6.1889 there is a reference to S. Nos 141 and 26 of Sarvamanya Sravanabelagola Village, the ryots of which claimed tenancy rights in respect of the said S. Nos but their request was negatived.

If asked, the Supdg. of Land Records can be requested to state the present S. Nos corresponding to the old S. Nos 141 and 26 which existed in June 1889 — The date of the order ref. to above. Copy is also

17. The petitioners state that the matt at Sravanabelagola is entitled only to the rent from the S. Nos. 253, 255 and 268 of Nagaryankoppal, land not cultivated by them. They seem to claim that they are Kadim tenants of the land and cannot therefore be evicted from the lands. The Sub-Asst. Commr. officer has held that the lands belong to the matt and has refused to recognize their claim to Kadim tenancy or ownership of the lands. The Dy. Comr., Hassan Dt., has confirmed the Sub-Asst. Commr. officer's order. The Mysore Govt. has rejected the appeal against

751 belonging to the Jain Lands matt at Sravanabelagola.

General and Revenue Secretariat — Mug. File No. 157 of 1937. — [App. F. III—2

Serial No.

the order of the Dy. Comr. on the ground that no appeal lies against the Dy. Comr's order in such case. In the case of some other petitioners claiming similar rights in the lands, the General Secretary has ordered that there is no necessity to issue a stay order. In view of the orders passed on the previous petition on the same subject contained in para 7 of the notes, it is a point for orders whether there is any necessity to issue a stay order in this case. May the petition be forwarded to the Mysore Comr. with for a report with the connected records with the request to report whether the lands are in Sravanabelagola or Nagayyankoppal and whether a village called Nagayyankoppal exists, as no such village is found in the list of villages in the State?

20-12-37. 18) The petition may be sent to the Mys. Comr for a

OTE—Contn. Sheet.

WD 0284—GPB—30,000—18 9 37

Sravanabelagola mutt lands in
Nagenjanahalli Village—

Mus 3 File No. 151 of 1937-38

General and Revenue Secretariat

SECRETARIAT
20 DEC 1937
3533

[illegible]

Memo of forwarded to M.C. for report for the P.A.D.
is invited for [illegible]

21) Form 1/11/38

Issued No. 765 Fen: Three stamps to each of 6
dated 13th January 1938.

Forwards 21 : 5 for favour of a
report.

Letter No HE 35/37-38 dt 19-9-1938 from the Muzrai Commissioner
Submitting records connected with the
Appeal of Bhujabalaiya & others of
Sravanabelagola about their claim
for the lands specified therein.

Petition dt 19-9-38 from messrs 8
Bhujabalaiya and Rangegowda
praying for a stay order till the
disposal of the appeal filed
by them before Government.

Order of the Member on P.A.D.

17/1

17/1

Appeal re: Lands endowed for the benefit of Jain temples

General and Revenue Secretariat — File No. 151 of 1937. — [App. F. III—2

Serial No.

= Where is this pending?"

Kind ref^ce is invited to the note and orders in paras 5-7 supra; it has been ordered on 1.12.37 that there is no need to pass stay orders: it is respectfully submitted that the request for a stay order is not a pending one.

(PP 3-a of the mss)

These papers relate to an appeal against the order of the M.C. communicated in appellants letter No. H&P 15/37-38, dt 20.10.37 wherein their claim for S. Nos 249-50, 252-3, 255-9, 261, 263, 264-9 of Nagangunakeppalu Village, Sravanabelagola Hobli, has been rejected. The order appears to have been based on S.O no. 1726-74 of 6/6/1889. From paras of this order it is clear that Sravanabelagola, which is a Sarvamanya Village, has been Surveyed & Settled. Kind ref^ce is invited to pages 2 & 3 of the Quit Rent Register of the Channarayapatna TK Compiled on 8/6/1897 by the Supdt of Inam Settlement. Sravanabelagola is a Sarvamanya Devadaya Inam endowed for the Supports of 32 Jain temples. The Inamdar is entitled to Land Revenue Mohatarfa, Sayer & Toddy income. The Varamulan records received contain an order issued

x D.

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—18-9-37

10) Appeal re: certain Crown S. Nos of Wagaiyanattappalu in Sarvamanya Sravanabelagola Village.

File No. 151 of 1937-8. General and Revenue Secretariat

from the Channarayapatna TK Office to the Panchayat of Sarvamanya Kalmalabelagola. vide No 144 of 4.7.1889). The lands measuring 62 acres 18 guntas referred in para 1 of the Govt. order of 6/6/1889 in respect of which the claim of certain ryots for kadim tenancy rights has been vetoed & the ryots are declared to be tenants at will under the Inamdar, are Batayi lands in Horakalli Village situated below the tank there at, & the appeal in respect of these lands, as distinct from the lands constituting the subject matter of the appeal, the order of 1889 appears to have been passed. The mutt & Jaindevaru have been endowed separately Kabbalalu Village as Sarvamanya for its support. pp. [illegible]); the Inamdar being entitled to Land Revenue, Mohatarfa etc. The entries in the register to show that all the 32 Jain temples & the mutt are entitled to Land Revenue etc in the Sarvamanya Inam Villages appear to be.

The matter has since been referred to Government in view of the individual claim

Serial No.

of the several ryots in Nagenyanakoppa village, Sravanabelagola Hobli, in the light of orders issued in the Degila Mutt Case. (Vide my D.O letter A1&P1 151/37-38 of 3-10-37 addressed to the D.C. Hassan &c). In the case of Sri Degula mutt at Kankanhalli the ryots admitted that they were giving to the Mutt Rajpal in the form of either produce or its money value. This was deemed to be a good enough indication that the ryots were holding the land on an annual grant system. (Mysore 17 of 29-11 book ref for ref)

2) The appeal petitions in paras 3 & 4 of the D.O say that only Kandayam is levied by the Mutt in respect of these lands; the receipts and other documents produced by them before the Amildar in support of their contention appear to have been taken away for ref in appellate Court

2) As the petns do not appear to have been heard

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

17) Appeal re: Khadim tenancy rights in respect of certain S. Nos in Sravanabelagola village - Sravanabelagola.

File No. 151 of 1937 General and Revenue Secretariat

by the M.C. in respect of their alleged claim for Khadim tenancy rights and the latter question has not also been examined in the lower offices, if agreed, the case could be remanded to M.C. for such a course leaving the appellants to apply to the Govt. in the first instance if they so desire —

The appellants contend that they have been in possession of the lands in Sravanabelagola Hobli belonging to the Jain Matt at Sravanabelagola. Attention is invited to the order of the Sub-Dvn. office, Hassan Sub-Dvn., dated 5th June 1937, which gives a history of the case and to letter No. 1791-34 dated 5th June 1937, of the Dy. Comm., Hassan and G.O. No. 1726-72 dated 1889 on the subject which gives a history of the case and to letters in which Govt. have rejected the claims of the appellants to the inam lands in Sravanabelagola Hobli.

Appeal of Bhujabalisah and others to certain inam lands endowed to the Jain matt at Sravanabelagola.

General and Revenue Secretariat — Mysy. File No. 151 of 1937. [App. F III—2

Serial No

1888? (Vide orders at the end of para 3 of the G.O. of 6th June 1888). The Govt. have held in that order that the appellants, who are cultivators of the lands of the matt are only tenants at will cultivating the lands of the matt, which is the inamdar of the lands. And yet the decision of the Dy. Comr., Hassan dt., and the Inspl Comr. is alleged by the appellants to be in contravention of the law. There can be no Kadim tenancy in Devadaya inam lands, as such inam lands have to be leased by competition (i.e. by auction) annually or once in five years. (Vide rules relating to the lease of lands of Inspl institutions contained in pages 232 to 236 of the Inspl Manual). The objection of the appellants, who are tenants at will of the inam lands of the matt, to their eviction seems to be untenable. Submitted for orders. ~~He~~ do

K.S.P.
11.10.38.

30) The Mys. Govt. have in his endorsement to the appellants

NOTE. Contn Sheet

WD 0544 —GPB—30,000—2-9-38

(4)

Appeal re: Kadim tenancy rights in respect of certain S.Nos in Nagapattinam Kottaipattinam village — Sivaramabalagulakki —

Mu3 File No. 151 of 1937-8 | General and Revenue Secretariat

dated 30.10.37 directed that Gr. No. 1726.72 dated 6.6.1909 has definitely declined to confer Kadim tenancy rights & ordered that there are still inferior tenants at will. The law from the ground that in the record of rights entering it has been noted as appeared that the lands belong to the Math & that it is in the order we appeal this, the Asst. Collr confirming the order is in order.

The appellants contend that the Gr. of 1909 applies to Thirtachi lands & not to lands in Nagapattinam & that even the record of rights keeps the question of Kadim tenancy open (vide S.D.O's order) & that the appellants have been in possession of the lands even long before they were granted to the Math as Inams & that they have not been afforded opportunities to represent their case properly & to adduce evidence before the authorities in support of

Appeal re certain lands & rights in respect of certain S. Nos in Nagaiyamakkanpatti village - Ramanathapuram dist.

General and Revenue Secretariat — File No. 151 of 1934-35 — [App. F. III—2

Serial No

their case. The records do not show however that any such enquiry has been held. As it is proposed to evict the appellants from the lands of which they purport to have been long in possession, a detailed enquiry seems necessary & the appellants should also be given all possible opportunities to address all evidence in their favour. In this view, the case may perhaps be remanded for disposal as ordered by the Hon'ble Court in another case (W.P. order dated 29.12.36 in Hon'ble Appeal No 15/33.4).

2) The appellants have asked for a stay order. This may perhaps be granted by us

13.10

Govt. Pleader

RECEIVED 13 OCT. 1938 11 O'CLOCK

N

NOTE—Contn Sheet.

WD 0514—GPB—30,000—2-9-38

h)

Appeal re: Kadim tenancy rights in OS/parts of Certain S. Nos in Nagayanakoppalu Village — Srirangapatna Taluk Mandya District

No. [illegible] 57

General and Revenue Secretariat

Is Nagayankoppal a separate village or is it a hamlet of Bannamabolagudda village?
Is it true that the GO of 1889 does not apply to the lands in Nagayana Koppal now referred to?
Is the case of these lands different from that of the lands dealt with in the 1889 order?
The SDO said that the question of Kadim tenancy would have to be examined. Does the Govt consider this unnecessary?

Nagayankoppal is not a separate village but is only a hamlet of Bannamabbagudda. The GO of 1889 related to 62 annexed grants of land (S. Nos 141, 26 & 25) & the present case relates to 14 S. Nos comprising 44 acres & odd. There is nothing to show that the lands are identical. In fact the applicants contend that they are different inasmuch as in the former case, the grantees were found to be in possession only as Varam tenants the applicants now state that they have been in possession of the lands from long prior to the grant of the lands to the Govt & that they are in possession of documents

29 1243-37-38

Mrs Appeal re: tenancy rights in respect of certain S.Nos in Nugainana Kottakalu Village Colonising Ao under G.O. dtd 16-10-36

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No

Subject to any contention.

31/X Mr Rajamani the S.D.O. is absent on tour. Hence no enquiry about Kadai tenancy rights could be made. The M.O. is also silent that this is necessary as Appellant only has both the sides of story considered the case of the applicants also. Therefore

Sd/- [illegible] 36) for perusal. The claim of the Appellants does not seem to have been examined on merits. The case may as suggested by the Asst Secy be remanded and stay order given

Sd 31.10.38

Sd 1/11/38

GENERAL SECRETARY. 31 OCT. 1938 495

4321 1/11

First Member

Stay order may issue but as to remand, the party affected (respondent) must be given a chance to be heard. May be posted

Sd 2/11

Sd 3/11

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

File No. of 1937. | General and Revenue Secretariat

No 688 of 5.11.38 to Bhujabalaiya, Range 9 Forest Station of Nagaiyanakoppalu Village Channarayapatna Taluk in this ating Trial Their request to a stay order has been granted.

Memo no 689 of 5/11/38 to the Inspector Commissioner forwarding Copy of the above for information and necessary action.

Petition of 5/12/38 filed by Mr R. Venkatadri Bhabaiya Advocate for the Pattadars of the Sevanabelagola Mutt praying that the case may be adjourned to any day after January 1939.

orders by Hon'ble ...

R.R. 3.4.) V— Advocate for the Complainant prays for two adjs. Submit for orders

Hon Govt

1st Monday

No Report

5/12

7/12

OFFICE OF THE
FIRST MEMBER OF COUNCIL
DEC 6 1938
No. 5295

Mis appl no 12 of 37-38 re: the claim of the (19
applicants for certain S. Nos of Nagaiyankottai
Village - Srivaikuntam Taluk.

General and Revenue Secretariat

File No. 151 of 1937. [App. F. III—2

Serial No.

Instructions

Sd/-
8/12

Sd/-

1) No 916 of 8.12.38 to the R. Venkata Subbaya Advocate for the respondent intimating that the case has been adjourned as prayed for by him

Memo no 917 of 8/12/38 forwarding Copy of the above to the Counsel for the appellants

Memo no 918 of 8/12/38 to the Amildar Chairman Tk forwarding Copies of the above for intimating the parties concerned in the case.

2) The case has been as per orders posted Thursday the 9th inst

3) The case has Called on 9.2.1939. The appellants with their Counsel & the respondents by his agent with his Counsel were present & heard. Orders reserved.

Sd/-
9/2/39.

4) Further enquiry may be ordered & be made on the points requiring elucidation.

Sd/-
16/2/39

Sd/-
16.2.39

NOTE—Contn. Sheet.

OFFICE
FEB 16 1939
6597

WD 0514—GPB—30,000—2-9-38

20) Mang appl No 128 1939-
about The Cl. [illegible] in Bardoli

Mang File No. 151 of 1937. General and Revenue Secretariat

in accordance with the Asst. Secy.'s note flagged H.

21/2/39

FEB 22 1939
No. 6213

51) NLL
23/2/39

52) [illegible]
[illegible]

53) Issue
No 1372 of 25/2/39 to the Mangrol Commissioner
returning records and directing that the Appellants
may be given an opportunity to produce evidence
in support of their tenancy rights and a
report together with findings on the points
raised by them submitted at an early date.

54 [illegible]

[illegible] may be posted
[illegible] in para 49 supra
53 accordingly
21/2/39

56) Issue
No 1373 of 25/2/39 to the appellants 13
intimating that the Mangrol Commissioner
has been asked to give them an opportunity
of adducing evidence in support of their
contentions.

Mag appl 127-37-38 about the claim of rights in certain Survey Nos of Nagarjuna Koppalu Village Sravanabelagola Hobli

General and Revenue Secretariat — File No. 151 of 1937. — [App F. III—2

Serial No.

Memo No 1374 of 25/2/39 to the Counsel for the Respondent forwarding for information Copy of the above —

Petition No 45 of 20.3.39 from the Swamiyaru of Sri Sravanabelagola Mutt bringing to the notice of Govt that Rangegowda & others — the appellants in the Case — have been felling green trees etc and requesting that they may be prevented from doing so and from removing the cut timber.

5) In para 4 of the P & D the Swamiji of Sravanabelagola Mutt says that Govt assumed management of the Mutt properties about two years back; this is not true & the Mutt lands have been under Govt Management for over 60 years. Strictly Speaking — the Village of Kabbalu is the only Sarvamanya Inam Village endowed for the support of Jain devaru & Mutt; it is likely that the lands in this Village may be in the Khatha of the Mutt (Vide para 4 of the Govt Revenue Dept's letter of the Commissioner dated 7/4 put up for perusal) — The Swamiyaru apparently refers to the lands in Nagarjuna Koppalu Village which is a hamlet of Sravanabelagola; the income from

NOTE—Contn Sheet.

WD 0544—GPB—30,000—2-9-83

This Vinaya is in the shape of -- Land Revenue, Mohatsava, Sastyabda + Tarpy is for the Subpost of the 32 Jain temples at the Place + not for the Office. (PP 2 + 3 of the Quit Rent Regt). The appeal launched before Govt by Ranga Gowda + others Rpt. W in para 2 of the P.M.D has been practically demanded for an enquiry about the Khadim tenancy rights claimed by them over certain S.N.Os of Nagarigeman + Kopparam Villages + prior to this a Stay order has also been issued in favour of the persons Govt complained against vide the minute of the first member in para 3 of Rpt). While matter stands thus whether any interference at this stage is called for is a matter on which Law Secy may be consulted. For orders — it is a point for orders whether the tenants have got the right to cut down trees when (from establishing their right to the lands on which they stand is a point for orders.

The petition may be sent to the R C

Sd

24/3

Sd

27/3/37

GENERAL SECT
24 MAR
1937

1284

Re: Tenancy rights in certain Mahajan & Appadai lands — Srivaikuntam. 23

General and Revenue Secretariat — File No. 151 of 1937. [App. F. III—2

Serial No.

MAR 25 1937

may be sent to the Mysore Commissioner. Pending the decision of the question about Kadim Tenancy, it is perhaps desirable to get a record made under proper safeguards of the signatures of the parties also, if this is practicable about the trees existing on these lands & their value, including trees, if any, cut & removed as alleged. The question of the Taluk may be attended to do this personally. This will enable action being taken against the parties, if necessary, later on, in case the question at issue is decided against them.

(Member)

25/3

61) 27/3/39

62) The petition may be merely sent to the M.C.

27/3

63

64

No. 1630 of 28/3/39 to the Mysore Commissioner forwarding the petition specified therein

NOTE—Contn. Sheet.

WD 0541—GPB—30,000—2-9-83

May File No. 151 of 1937. | General and Revenue Secretariat

Serial No.

Letter No H C 35/37-38 dt 19-12-1940 from the Mag. Comr. submitting a report re: the enquiry held in the case

1) In para 2 of his letter the M.C says that the Asst. Dist. Officer has held a detailed enquiry. The C.D.C is of opinion that as per G.O No 1726-72 dt 6th June 1887 the alienations and other transactions pertaining to lands in question cannot affect the rights of the Mutt. The D.C agrees with the S.D.O The unauthorized alienation ~~com~~ of inam lands cannot be recognized. Subd. for orders.

CKS 8/3/41

These papers relate to an appeal that came up before Govt against the decision of the then H.C (the present Second Member of council) - The facts of the case in toto have been set forth in a brief. After hearing of the case, the matter was refd to the M.C. for recording findings on points indicated in this office letter No 13720 dt 25/2/39 - In the course the entire question was refd to the S.D.O. for detailed enquiry & report - After hearing the parties in detail, he has summed up his opinion, recorded his findings (vide his report of CA C 681/3709 2.11.39) - He opines that the Govt order No 1726-728 dt 6/8/, held good in respect of similar lands at

NOTE—Contn. Sheet.

Serial No.

[illegible], a hamlet of [illegible] Anabelagala [illegible] the above-
-name and does not refer to any particular
village as alleged. It is submitted that
apparently he was not in possession
of the original records of the Sri [illegible] Mutt
lands referred to in the order are clearly
Mahajan lands below Hoskatti Tank.
[illegible], Hoskatti [illegible], Avvamanya
endowed for the Services of the Jain
temple at [illegible]. He does not
appear to have gone through the Quit
Rent Register of the Taluk. Hoskatti,
Sravanabelagola & Varavani are
Devadaya. In all villages endowed
[illegible] of the 32 Jain families
the Inamdar Viz. the [illegible] being allowed
[illegible] Land Revenue, Mohatarfa etc. &
Services & Tooday - In a compilation
of regular of Mutt - Inst[itu]tion endorsed with
all Inam lands the above
shows any revenue or tax under
Quit Rent [illegible] Inam Register
Inquiry findings the Court has held that
none of the Vatans can be recorded as Kadim
Mokasa as this
Workmen joins with the question
of adverse enjoyment of lands [illegible]
[illegible] as rejected by The Hon'ble the Chief [illegible] or otherwise by
in his order of 27-12-34 - The provisions
2 & Sec[tion] 10 of the Religious Charitable

Serial No.

Irrigation Act VII of 1917 has also been in force in the area [illegible] - There are instances of Tamil lands in Savanamanga Sravanabelgola village having been given away in exchange for payment of annual assessment leviable on the [illegible] lands (Vide G.O No 1232-3/Mis 98-95 of 10.6.96). S.No 90 of the village measuring 22-39 guntas is one such. The several Kandayam receipts filed [illegible] among the records relate to Kandayams collected from the ryots of the several villages of the Temples and also of the Mutt & this fact is borne out by the entries in the Distrepote Counterfoil issued by the Dharmadhikari on 3/11/99. 8/6/189). Reference is invited to the report of the Mysore Inspector & the D.C dated [illegible] his inspections at Sravanabelgola - from which it is seen that the villages of the Temples & the Mutt came under Govt management about the year 1874 & have since been continued as such. It is also noted that the [illegible] have been surveyed & settled, the Jamabandi being about Rs 3000/- (Mis 77 of 1907). Reference is invited to G.O 15 of Md 80 - 36 from which it is seen that at the time of the Inam Settlement the properties of the temples were under the management of Govt. The copy of the Dist

12

14

NOTE—Contn. Sheet.

Serial No.

5

D

Mag. Appl no 12 of 37-38 re: Tenancy rights in certain lands of Araganpattu 28 Kravandhalai

General and Revenue Secretariat | 1/112 File No. 15 1 of 1941. | [App. F. III-2

Serial No.

Kadirai Vernacts.

The S.D.O has examined 14 witnesses on behalf of the appellants and several exhibits have been filed on behalf of the appellants & on behalf of the respondents. For reasons explained in his detailed report dt. 2.11.1939, the S.D.O. has held that Reg. of 1894 is applicable to the lands in dispute & that the appellants have not established their claim to be recognized as Kadirai Vernacts.

A number of documents have been produced to show that the parties & their predecessors dealt with the lands as they were the enjoyers but Revenue authorities are not parties. On the contrary, the appellants' predecessors did not urge their claims at the Inam settlement & the Khata of the lands was shown in the Khatawar & other records as the Mutts'

To Vernacular may be posted for hearing

APR 2 1941 No. 9988

SECRETARY 2 APR. 1941 2331

NOTE—Contn. Sheet.

(72) Sec. Pulle & Pelpl 1st member) W.S.M.

71) 1/4/1941 & 2/4/1941

Mu; appl 12 of 37-38 re: Tenancy rights in certain lands of Nagayyanakoppalu village – Seravina Veldore

Mu File No. 151 of 1937

General and Revenue Secretariat

Serial No.

73 The case which was posted for hearing on 23/4/41 along with other Revenue cases was not heard that day and it was adjourned to 28th Apl – when the counsels for the parties again got an adjournment on the score of their having to obtain copies of several Vernacular Records. For the grant of these copies the entire vernacular records had been sent to the D.C. Hassan Dt (vide leaded file). After the preparation of the copies for delivery to the party, the D.C. ... the case may be reported for a hearing –

[illegible] OFFICE 31 OCT. 1941 No. 3566

5
30/10
74) Submitted for orders as to who should hear the appeal. The appeal is against the order of the Finance Minister as [illegible]

[illegible]
30/10

[illegible])

75 May be posted for hearing ~~before~~ by the Law Minister & myself

Mu
3/11/41

[illegible] OFFICE 1 NOV. 1941 No. 4162

OFFICE OF THE [illegible] NOV 4 1941 425 3

[illegible]
3/11

Law Minister)

77 It may be posted for hearing on a date convenient to the Law Minister

14/11/41

W.J.?
[illegible])

78) [illegible] 17/11

Sabld 7 Saturday the 13th Dec May, December the [illegible] be suggested?

80

Secretary and Private Secretary

416

NOV 19 1941
No 4989

OFFICIAL CORRESPONDENCE
MINISTRY OF
NOV 28 1941
No

Note Sheet.

Memo of 21/11/41 filed by Mr D. Sharma Bar advocate for the respondent Miss praying that the case may be fixed to some Saturday in January 1942.

Perhaps This will be necessary as directed in para 3

Let the records and the Counsel for the case

Mercy appl 62 of 37-38 re - tenancy rights in certain lands in Nagapattinam Kottaiwasal - S Ramakrishna

Mercy File No. of 1941 | General and Revenue Secretariat

Serial No.

being posted to a Saturday in January 1942 is for order

Un
3.12.41

Dr. ... OFFICE
10 DEC. 1941
No. 4920

Dismissed

1) Mem
12/12/41

1) P of the ... the Knight Engr
31/12/41

5628

Saturday, 17th January at 2 P.M.

Mem
31/12/41

Issue
2/1/42

... Land Minister
2/1/42

Mem -
4-1-42

JAN 2 1942
6679

5/1/42

93 Posted for hearing on Saturday the 17th Jan Time 2 P.M.
4/1/42
+ Mr R Venkataramanayya for the Appellants
+ Messrs D Sitarama Rao + M. Venugopala Rao for the respondents were present
17/1/42

Counsel for both sides were present & represented that both parties were attempting to reach a mutual settlement and prayed for a month's time.

The file may be posted again 17th Feb 1942 for further orders

17-1-42 96) Mem

17/1/42

Mag appl 12 of 37-38 re: tenancy rights to certain lands in Nagaimpattu village Kayts

General and Revenue Secretariat — File No. 151 of 1937-38 — [App. F III-2

Serial No.

8302

Subject to directions if any
Nothing has been heard
from the parties or their
Counsel
26/2

Land Minister)
Saturday, the 7th March 1942 at 3 p.m. until
fixed by the Court approves
26/2

Court) 27/2 26/2/42

(The Secretary was directed
today that the appeal may
be posted for mentioning on
Friday, March 6 at 3 p.m.
The Secretary can enquire on
the 7th. at 4 p.m.)
26.2.42

Land Minister) 26/2
If Saturday the 14th March suits the
Court, notice may issue accordingly
27/2
26/2
28/2

FEB 27 1942
No 8572

Notices issued & the case stands adjourned -
The next date of hearing is 4th April 42-

NOTE—Contn. Sheet

33

Mis. File No. 151 of 1937. | General and Revenue Secretariat

Serial No.

Petition of 14.3.42 from the Swamigalu of the Jain Matt at Sravanabelagola requesting that the Stay order in misc appl 120 of 37-38 may be made applicable to such of the survey numbers in respect of which there is no dispute so that the remaining extents for which there is no dispute may be leased out.

The Stay order referred to in para 1 of the P.C.A was issued on 5/11/39 & it was open to the petr to have moved the respt some time before the expiry of the stay order - The Case is being adjourned from time to time as the petr wanted some time to arrive at a Compromise decision in the matter; as no Compromise was so far been arrived at, the Case has been posted to 4th April 1942, & during this short period no separate consideration of the request moved in the P.C.A is called for.

[illegible]

31/3

[illegible]

31/3

31/3

Appl. 100/21

GOVT. OF MYSORE 31 MAR. 1942 5819

Serial No.

OF THE
OF LAW
APR 24 1942
1119

S/14 D/d noted

No. 1758 of 2/4/42 to the Muzrai Commissioner in him ching that action may be taken to lease certain lands of Nagajjanakoppalu Village - Davanabelagola Dakhale specified therein

4-4-42. 10 Both parties Counsel present. They report that a settlement by mutual ~~Compromise~~ Consent is nearing Completion & want a short adjt. Adjd to 25/4/42 at 2 P.M.

4/4/42

3 Brij a balaiya & two Range Gowda of Hallur Appellant with their Counsel Mrs R. Venkatalakshmaiya were present. The Appellant & two Minr with him Counsel viz Messrs A. Shama Rao & H. Narayana Rao - (Advocate) were also present

Letter dated 24.4.1942 from Mr A. Shamarao B.A.L.L.B Advocate, Bangalore Requests that the hearing of the case may be adjourned to the 30th April 1942 for reasons stated

10 Mr Shama Rao has stated that the case has been Compromised and that the Razinama will be presented to Court on or before the 30th instant. He has requested that the case may therefore be adjourned to the 30th April 1942 for orders.

24/4

110) Yes

24/4

NOTE—Contn Sheet

File No of 194, | General and Revenue Secretariat

Serial No.

Mr M Ramaswamy Iyengar present. He says that the Ramaswamy is not yet written.

There is no one present for the Appellants. There is nothing on record to show that the Ramaswamy had intimated the Counsel for appellants ~~had~~ about the pltff's death. But the appellants' Counsel were not present ~~at~~ on 28/4 & they had appeared, they could have learnt of the death.

The office, in any case, should have intimated the adjd date to both parties.

This is a failure.

Case adjd to 16/5/42 at 1 P.M. for hearing. } changed to 20/5

If either party fails to appear, the ex parte hearing will be held & the Case will go by default. 7/5/42

30/4

Mr Ramaswamy Iyengar informed for Pltff's

Please inform Appellants Counsel

30/4

30/4/42

D. SHAMA RAO. B.A., LL.B.
ADVOCATE
ಡಿ. ಶಾಮರಾವ್, ಬಿ.ಎ.,ಎಲ್ಎಲ್.ಬಿ.
ಅಡ್ವೋಕೇಟ್

BALEPET
ಬಳೇಪೇಟೆ

MAY 2 1942
No 11407

Bangalore City
ಬೆಂಗಳೂರು ಸಿಟಿ 2nd May 19 1942.

GEN'L & REV. SECRETARIAT
2 - MAY 1942
1507
MUZRAI BR...H

To

The Assistant Secretary,

Muzrai Branch, General and Revenue Secretariat,

Public Offices, Bangalore.

Sir,

In Muzrai appeal No. 12 of 1937-38 (Bhujabaliah and others Vs. Sri Swamigalu of Sravanabelgola Mutt) parties had undertaken to report settlement on 30-4-1942. I have since received a letter from Swamigalu to the effect that the terms proposed by him were not accepted by the appellants and that there is no chance of ~~the~~ compromise of the case. I, therefore, request you to bring this fact to the notice of the Minister and have the case posted for arguments to any day after the 16th instant.

I am, Sir,

Yours obediently,

D Shama Rao.

Advocate for the respondent.

2/5/42

(113) Submitted for order

Land Minister 2/5/42

(114) Posted 20/5/42 at 1 P.M.

2/5

Serial No

(16) The notices have returned duly served on the parties & the case has been posted for hearing on 20th inst. Time 1 Pm to-morrow

GS 16/5

Counsel for both parties are present.

(17) Both parties agree that it will facilitate their presentation of the case if they have a copy of the S-D.O's Report on the enquiry held under the order of Remand.

A copy of the D.O's memo No C4 C 681/37 dt 2nd Nov 1939 will be granted to each side on presentation of a copy application & necessary Stamps & paper by the Respt & on presentation of necessary Stamps & paper by the appellant.

(18) Case adjd to 10th July at 1 Pm.

Rm
20-5-42

GS 20/5

Appellant's memo thro' Mr. R. Venkataramiah (presented by his clerk) dt 5-6-42 praying for a copy of the S.D.O's memo.

(19) Orders. Court fees stamps of Rs. 2-8-0 and each Rs. 6-0-0 are produced by or on behalf of the appellant. The memo of the S.D.O. dt 2-11-39 will be got typed and given to the party's Advocate

9/13/6 JM

(20) 9/6 Pm Office to see if there are any portions in the above memo the extracts of which cannot be given to

(7c K)

NOTE—Contn Sheet.

WD 04155—GPB—55,000—23 10 41

Mu2 appeal/12 of 37-38 re: tenancy rights in respect of certain lands in Wapaiyawatta appeal. S. Belagola.

1508

Mu2 File No. 157 of 1937.

General and Revenue Secretariat.

Serial No.

(121) Subj: There are no portions which could be considered confidential and taken out from the report. It contains the affidavits of the parties and the opinion of the S.D.O. The entire Memo may perhaps be got typed and granted to the petitioner, in the light of the orders of the Law Ministry.

V. M. (22) 23/10/42

(123) Typing section for kindly typing the Memo (C4 C 687/37 of 2 11-39) of the S.D.O. in the private paper put up, for being granted to the [illegible]

(124) Copy of S.D.O.'s report has been taken by the Advocate for the Appellants on 4/7/1942.

4/7/42

(K.K.)

Case posted for hearing on 17/7/42 1 P.M.

E 1942

JAN 29 1943
6403

D.

For appellants — 9 Ryots owning about 18 acres.

1 The G. O of 1889 does not preclude us

2 Therefore our case should be disposed of apart side as Kadim tenants (Sec 84 L.R.C) or permanent tenants (Sec 79, & last paragraph L.R.C) read with the explanation clause 4 of L.R.C as amended by Reg XVII of 1928)

{ Origin of tenancy is not determined
{ Duration is a matter only for conjecture.

A1 1930 A.I.R Bombay 40 at p. 29. Ramna chand Shah & Trikamlal H. Patel.

B1 1931 A.I.R Bombay at p. 302, Jamadar Ram Narain & Lakshman Mahadev.

C1 1932 A.I.R Bombay at p. 577

D1 11 Mys C.C.R. p. 48. Sri Krishnananda Tuttha Somayaji.

3. In respect of R.T.C. Act, our case falls under chapter II and chapter IV

N3 (Linked file) Exhibit 4 is Rudriodgani. 1803 (??)

If this is accepted I come under the first proviso Our case falls under the second proviso.

Adverse possession includes possession as a tenant. Therefore it is open to a tenant to aver that he is a permanent tenant by reason of his tenancy for 12 years prior to the passing of the Act

4. Part of Chapter IV is applied, Jaday 1941 A.I.R. Bom p. 29. Sri Gangadhar Devi & Madhavacharya, decision under Sec 83 Bombay L.R

E1 NOTE—Contn. Sheet.

[Note by me — This is a land endowed to temple & not to a Mutt]

Mad a Appeal/21/37-38-

2.

Mo

File No of 193 .

General and Revenue Secretariat

Ord - contra that ~~Govt~~ We do not
hold with a grant from a Mutt as this
Here no Inam. The appeal against us
See 79 Explanations 3 & 4 are in our favour,
as we have made improvements & made
long rents of rent over a considerable period
Also explanation 2, as alienees have paid
~~rent~~ rent & therefore do be held
this.

Ex 25 A — Sale proceedings by
Rev authorities for recovery of rent.

Reply for Respondents — The Mutt

3-] the case falls under Chapter IV & not under
& 4 Chapter II of R & C.S. Act as
the grant is to the head of the Mutt
& the object of the grant is stated to be
for maintenance of the temples (9th August 1930)
Therefore Chapter IV applies.
18 Mys L.J. p. 429. Yellappa & others & Thippa Setty & others
— 12 years' adverse possession is necessary against
each successive grantee
the present grantee was instituted in 1928
& he repudiated the tenancy in 1930.
19. Mys L.J. p 86. Thimmappa Bhatta & others etc
& Venkata Appa & others. As observations
~~decisions~~ from the Bombay
decisions quoted.

Sagwale Chit Ex 4 is not authoritative.

General and Revenue Secretariat | File No. of 193 . | [App. F. III-2

(1) Ids not Contest Contention 1.

Survey Settlement was introduced in 1885. These parties do not get their names entered as Remarks or Kadim tenants.

Counter Reply for Reply.

~~19 Mys L J 100.~~

H1 46 Mys H.C.R. Pt 1 87 (Feb 1941) same as 19 Mys. L.J. 86, — does not go against Bombay decisions cited by me.

It is not a case of unknown origin but of known origin.

(Since filed) X1 I shall file also a Mysore H.C. judgment in favour of my party that adverse possession as a tenant.

Orders reserved

17-7-42

NOTE—Contn. Sheet.

File No. of 193 .

General and Revenue Secretariat

Serial No.

Muzrai Appeal No. 12 of 1937-38 re: Tenancy rights in certain Survey Numbers of Hanajankoppala Village, Sravanabelagola Hobli, endowed for the support of 32 Jain Temples.

APPELLANTS: B.P.Bhujabalaiya, Kamategouda and 7 others residing at and near Sravanabelagola.

RESPONDENT: The Swamigalu of Sri Sravanabelagola Mutt by his Agent of the Mutt.

---

(127) This is an appeal against the order of the Muzrai Commissioner conveyed in his endorsement No. App. 15/37-38 dated 30th October 1937 to the appellant declining to recognise the appellants as kadim tenants of the undermentioned Survey Numbers of Sravanabelagola village in the khate of Sravanabelagola mutt:-

S. Nos. 249, 250, 252-3, 259-9, 261, 265, 267-9.

(128) The facts of the case are briefly as follows:-

(129) Four sarvamanya villages, viz., Hosahalli village, Sravanabelagola village, Vattanahalli Village and Kabbalalu village, measuring a total extent of 2967 acres and 1 gunta and bearing an assessment of Rs. 2683-5-0 have been endowed for the upkeep of the Mutt and 32 temples, and out of these a total extent of 178 acres 31 guntas of land bearing an assessment of Rs. 592-4-0 as noted in the margin is in the khate of Sri Mutt. The sarvamanya villages were taken under

Village.	A. G.	Assessment. R. A. P.
Sravanabelagola	177-38	588- 4-0
Dadighatta	0-20	2- 4-0
Kumbenahalli	0-13	1-12-0
	178-31	592- 4-0

NOTE—Cont. Sheet.

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Government management from 19-6-1874 as per Chief Commissioner's order No. 2080-29 dated 19th June 1874. The lands in the khate of the mutt seem however to have continued to be in the possession and enjoyment of the mutt, and in order No. 355/23 dated 17th April 1882 Government directed that the mutt should in future pay the kandayam on these lands. The Swamigalu as the Trustee of the mutt proposed that the lands in the khate of the Mutt might be taken possession of by Government and managed along with other properties, the income realised being made available for the purposes of charity, and accordingly the Muzrai Commissioner directed, in his order No. C. 1064/34-35 dated 20th October 1936 that the properties might be leased out to the best advantage of the institution. Action was accordingly taken to lease out the lands in question. The petitioners, who felt aggrieved by this order, presented a petition to the Muzrai Commissioner on 23rd November 1936, alleging that they were kadim tenants and that in the course of the Record of Rights enquiry, the Amildar had conceded this, and directed the insertion of their names in columns 14 and 15 of the preliminary record and that the Swamigalu had appealed against this order to the Sub Division Officer and that in the meantime the lands were proposed to be leased and that, if this was done, it would cause them loss. The Muzrai Commissioner issued a stay order, and called for a report. But subsequently, on the report of the Deputy Commissioner that the Amildar's order was in appeal before the Sub Division Officer, the stay order

Serial No.

was withdrawn, and the question of staying further proceedings was left to the Deputy Commissioner, and the petitioners were also informed accordingly.

(130) The Sub Division Officer passed orders on 5th June 1937 allowing the appeal of the Swamigalu, and held that the appellants (before Government) could not set up a claim to be the full owners of the land or to have acquired rights adverse to the Mutt, and the Mutt should be regarded as the 'occupant' and that its name should be entered in the Final Record. He observed that the alternative claim of kadim tenancy was not the issue in this case and that this should form the subject matter of a separate enquiry and the rights should be established in a proper Court of Law. He further observed that in the absence of satisfactory evidence the presumption is against the permanent tenancy, particularly as this was a case of lands endowed to a religious institution. A revision application having been filed against this decision before the Deputy Commissioner the latter agreeing with the Sub Division Officer, dismissed the petition.

(131) The appellants preferred an appeal to the Muzra Commissioner, who dismissed the petition on the grou that under the Record of Rights Act, no appeal lay under the statute from the orders duly passed after enquiry by the Sub Division Officer and the Deputy Commissioner, and on the further ground that the Government had decided in their order No. 1726-72

WD'04155—GPB—55,000—23 10 41

A

File

He further observed that in the Course of enquiry, it has been held on appeal that the lands belong to the Mutt.

General and Reven
Secretariat

Genl

lated 6th June 1889 that kadim tenancy rights could not be conferred on these ryots who were merely tenants-at-will. The appellants have appealed to Government against this order. Their contentions are as follows:-

(1) That orders have been passed ex parte without an enquiry or a hearing, although the case was remanded to the Deputy Commissioner by the Muzrai Commissioner and that the offer of the appellants to adduce materials in support of their case has been rejected.

(2) The appellants have been in possession as kadim or permanent tenants from time immemorial.

(3) The orders under the Record of Rights Act cannot constitute a basis for a decision on the points involved, as they should form a subject of separate enquiry and proceedings.

(4) The G.O. of 1889 related to some other properties situated near Hosahalli, and has not been properly construed, and has no bearing on the lands in question.

(5) The appellant's claim is supported by documents of 17-4-1803, i.e., long anterior to the grant of inam which was in 1830.

(6) Although the G.O. was passed in 1889, for nearly 50 years, the appellants' rights of kadim or permanent tenancy have not been questioned, but on the other hand, kandayam has been collected on this basis.

(7) The Muzrai Commissioner, in his endorsement to the

Serial No.

appellants, dated 30-10-37, stated that G.O. No. 1726-72 dated 6th June 1889 has definitely declined to confer kadim tenancy rights, and ordered that these are all tenants-at-will. He has further stated that in the Record of Rights enquiry it has been held on appeal that the lands belong to the Mutt and that, as under the rules no appeal lies, the Deputy Commissioner's order confirming the sales is in order.

(33) The appellants contend that the G.O. of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppalu, and that even the Record of Rights left the question of kadim tenancy open (vide Sub Division Officer's order) and that the appellants have been in possession of the lands even long before they were granted to the Mutt as inam and that they have not been afforded opportunities to present their case properly and to adduce evidence before the authorities in support of their case.

(34) As the records did not show that such an enquiry had been made, a stay order was issued, and after a hearing on the 9th February 1939, a further enquiry was directed to be held, affording the appellants an opportunity to adduce such evidence as they might choose to let in and to submit a report together with findings on the following points:-

(a) whether the order of the 6th June 1889 applies to the lands in question, and

(b) whether the appellants are permanent or kadim tenants.

NOTE—Cont. Sheet.

The

WD'04155—GPB—55,000—23-10-41

Serial No.

The Sub Division Officer, Hassan Sub Division, has held an enquiry. Fourteen witnesses have been examined on behalf of the appellants and several exhibits have been filed by both parties. The Sub Division Officer has exhaustively dealt with the case and has held that the order of 1889 holds good in respect of the lands in question, as their case is similar to that of the lands referred to in that order and as the said order does not refer to any particular village. In regard to the second point he is of the opinion that the appellants cannot claim kadim or permanent tenancy rights over the lands in dispute, and as such they are only ordinary tenants with a right to cultivate the lands.

As regards the alienations and other transactions connected with the Survey Numbers in question, the Sub Division Officer states that they cannot bind the Mutt or the Swami who was not a party to any one of them.

(137) The Deputy Commissioner and the Muzrai Commissioner agree with the findings of the Sub Division Officer.

(138) In a similar case in which Hanume Gowda claimed kadim tenancy, as the alienee of Survey Number 74, the then Muzrai Commissioner (the present Dewan) ordered as follows:-

> "As the Survey Numbers in question are portions of the Inam village endowed to the temples, their alienation may well be dealt with under Sections 9 and 10 of the Regulation. It is not open to the Guru who is in the eye of the law only the vahivatdar of the temples, much less to the agents of the Mutt, to

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to alienate these lands. The claims of the respondents in so far as they purport to be based upon a grant from the Swami or upon purchase from the Agent must therefore be said to be untenable. They can only succeed, if they are able to show that they acquired kadim tenancy rights by reason of adverse enjoyment for the requisite length of time under the Religious and Charitable Institutions Regulation or by the operation of the ordinary tenancy law. These points should be gone into. The case is therefore remanded for enquiry and disposal to the Deputy Commissioner with reference to the proviso to Section 10 of the Religious and Charitable Institutions Regulation and Sections 79 and 84 of the Land Revenue Code. There is no occasion to refer the parties to a Civil Court."

(139) After a number of adjournments granted at the request of both parties for effecting a compromise, the case was heard at length on the 17th of July 1942, [by me, as it was not convenient for the Dewan also to be present] The Counsel on both sides have cited a number of authorities and argued on the basis of the evidence and attacked or supported the findings of the Sub Division Officer, according to their interest.

(140) The Appellants, who are only 9 persons owning 18 acres of land, contend that the order of 1889 does not preclude them, that Exhibit 4 (Saguvali Chit), relied upon by them, was issued in their favour in the year Rudhirodgari, answering to 1803, i.e., 27 years earlier than the grant of the villages to the Mutt, that in any case, their position as tenants for over 12 years prior to the passing of the Religious and Charitable Endowments Act, grants them an absolute title to hold the lands as tenants as against the Inamdar, and that this is not covered by Chapter IV of the Religious and Charitable Endow-

NOTE—Cont. Sheet.

WD 04155—GPB—55,000—23-10-41

ments

Act but only by Chapter II, in view of the statement in the Sannad creating the inam, that it is granted to the Swami for the maintenance of certain temples and worship therein, and not to the Swami as Head of the Mutt, for the general expenses of the Mutt, that Exhibit 25A, being Sale Proceedings by public authority for recovery of rent, affords independent proof of the permanency of their tenancy rights, that as there have been several improvements effected to the land and rent has been paid for a considerable perio(explanations 3 and 4 of Section 79 of the Mysore Land Revenue Code should be applied in their favour, and that explanation 2 is also in their favour as the tenants have transferred the lands to others and the alienees have paid rent to the Inamdar, who had thus constructive notice, and lastly, that in any case, Section 30 of the Religious and Charitable Endowments Act does not apply to this case as there is no evidence of alienation by the Head of the Mutt but the Saguvali Chit originating the lease is from the Amildar.

(14) The Counsel for the Mutt does not contest the point that the order of 1889 does not apply to the lands now in question. But he urges that the Saguvali Chit (Exhibit 4) is not authoritative and proved, that neither during the Inam Settlement nor when Survey Settlement was introduced into the village in 1885, have the tenants got their permanent rights recognised, that on the other hand, the lands are entered in the khate of the Mutt, and lastly, that the case falls under Chapter IV, and not under Chapter II,

of

Serial No.

of the Religious and Charitable Endowments Act and that the recital in the grant, of the object, viz., the maintenance of the temples, does not take away from its essential character, namely, the grant to the Head of the Mutt. On this account, the Counsel relies on 18, Mysore Law Journal, page 429 (Yellappa and others Vs. Thippa Setty Mutt) and 19, Mysore Law Journal, page 86 (Thirupathi Bhattachar and others Vs. Venkatarayappa and another and said that the Appellants have only the rights of an ordinary tenant-at-will and that twelve years' adverse possession against one Swami does not avail against his successor, and that every successive Swami of a Mutt can repudiate a lease within twelve years of his own accession, that the present Swami was installed in 1928 and he repudiated the tenancy in 1930.

(42) The decision of this case depends, firstly, on the appreciation of the documents and the facts, and secondly, on the law applicable to it. On the point whether it is an inam granted to the Mutt, or to a Temple, it has to be stated that ordinarily, the Mutts are identified with the conduct of worship to certain tutelary deity, and grants to Heads of Mutts are given in the name of such tutelary deities and appertenant institutions, and not to the Swami as such; and therefore I am of opinion that Chapter IV of the Religious and Charitable Endowments Act applies to this case, and not Chapter II. As regards the date of tenancy, Rudhirodgari recurs every sixty years in the Hindu cycle of years. As the Sub Divi-

NOTE—Cont. Sheet.

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sion

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Officer remarks, Rudhirodgari would mean 1803 or 1863. The nature of the document and its appearance does not rule out the possibility of its issue in 1863. Neither party has let in collateral evidence from which the exact year could be determined. The Mutt is therefore entitled to the benefit that the Rudhirodgari referred to is 1863, that is, a period subsequent to the grant of the village to the Mutt. The fact however remains that the grant of the lands is by an Amildar, according to the document. The contents of that document have not been repudiated by any valid evidence. The document bears on it sufficient external characteristics to justify the presumption that it is true in regard to its contents, in the absence of evidence to the contrary. The series of receipts produced and all other documents show also that the tenancy is a long-standing one.

(43) As regards the applicability of the order of 1889 to these lands, it is necessary to refer to the nature of that order. That order arose from the contest by certain parties that certain lands in their enjoyment should be confirmed in their own right, or that the lands might be given over to them at Survey assessment. These lands were, according to the Deputy Commissioner's report dated 22nd February 1889, in the Sarvamanya villages belonging to the Mutt, which were settled in the year 1886-87. The Deputy Commissioner reports that in 1887-88 the Settlement was enforced as regards all but the lands

Serial No.

lands in dispute. This would lead to the inference that the present appellants, who are different from the petitioners then referred to, acquiesced in the entry in the Survey and Settlement and did not press their case, if they had any. The Government Order on the petition, however, first rejected the claim of the petitioners to kadim tenancy, and then proceeded, in paragraph 4, to lay down a general proposition:-

> "The Government has no right to create new occupancy rights by conversion of Batayi into Nagadiyat in an Inam village under Government administration on trust, unless it can be shown that such conversion is for the benefit of the Inamdar. In the present case it is abundantly clear that the Matt will lose by the conversion and the Government accordingly directs that the lands in question be registered in the khate of the Matt, and leased to the present cultivators on an annual tenancy on the rent hitherto usual."

(144) The law relating to alienations by Heads of Mutts is clearly laid down in 18, Mysore Law Journal, 429 (Yallappa and others Vs. Thippa Setti Mutt). So long as it is not proved that the ~~tenancy~~ tenancy did not arise prior to the grant of the village to the Mutt, this proposition of law must prevail. But in the present instance, as has already been indicated, the persons in possession of the lands and their predecessors in title have been in enjoyment for a considerable period. Even after Survey Settlement, their rent has remained unchanged for long. It is admitted that improvements have been effected. Ther is evidence of transfers of tenancy which have not been questioned. The action of public authorities

OTE—Cont. Sheet.

WD'04155—GPB—55 000—23-10-41

in

in putting up the tenancy rights to sale affords also evidence of the public repute locally, even though the Mutt itself was not a direct party to such proceedings. Lastly, the law on the subject has been changed subsequent to the Government Order of 1889 by the Mysore Religious and Charitable Endowments Act of 1927, Section 30 of which makes specific provision recognizing alienations which are made with the previous sanction of Government. This provision did not exist in the Mysore Muzrai Regulation VI of 1913. This new provision of law was purposely designed to cover hard cases like the present one. The case of Vidyavaridhi Vs. Balaswami Iyer, -- 44 Madras, 831, -- followed in Yellappa and others Vs. Thippa Setti Mutt, was prior to the provision of law enacted in 1927.

5862

(145) In view of the above circumstances, equity demands that in the present case, the persons in possession as tenants for over half a century now should not be disturbed, nor should they get a title in law which they did not possess and which they cannot possess without sanction of Government, except on payment of proper consideration to the Mutt. I am therefore of opinion that Government should confer permanent tenancy rights on these appellants, on payment of a reasonable upset price to the Mutt, to be fixed by the Deputy Commissioner and reported to Government for sanction, having regard to the present value of the lands and also the nature of the improvements that have been effected in respect of each land by the tenants.

6
29.1.

(146) [illegible]

21-1-43 (147) [illegible]

3-2-43.

Mwz. Appeal 12 of 1937-38. 298/D.

T.R.S. III—3]

Tenancy rights in respect of certain lands of Inavantelage (Village, Endowed to the Sri Jain Mutt and Temples at the place

ROUTINE NOTES.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Mutt - File No. 151

(148) Draft G.O submitted for Consideration

22-2-43 (149)

GENERAL SECTION
27 FEB. 1943
5560.

(150) Draft order, in accordance with the proceedings of the Minister (Law) is approved by the Dewan, for personal signature issue.

OFFICE OF THE ... FOR FINANCE & REVENUE
1 MAR 1943
No. 7502.

Minister for ...

(151)

TYPING SECTION
- 8 MAR. 1943
GEN. & PR. SECT.

(152)

[19]

Issued No. R. 8012-3/ dated the 19th March 1943

To - The Mysore Commissioner in Mysore with records

" Deputy Commissioner, Hassan District

Memo No. R. 8014 of even date

Copy to Mr. R. Venkataramaiah, Counsel for the Appellants

Memo No. R. 8015 of even date

Copy to Mr. M. Narayana Rao Counsel for the Respondent.

B Record

20-4-43

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

WD 05639—36,000—GPS—20-3-40

NdlS

Muzrai Appeal No.12 of 1937-38 - Re: tenancy rights in certain S.Nos. of Nagaiyankoppalu village, Sravanabelagola Hobli endowed for the support of 32 Jain temples.

Appellants:- B.P. Bhujabalaiya, Rangegowda and 7 others residing at and near Sravanabelagola.

Respondent:- The Swamigalu of Sri Sravanabelagola Mutt by his Agent of the Mutt.

N O T E

This is an appeal against the order of the Muzrai Commissioner conveyed in his endorsement No.APP,15/37-38 dated 30th October 1937 to the appellant declining to recognise the appellants as kadim tenants of the marginally* noted Survey Numbers of Sravanabelagola village in the khate of Sravanabelagola Mutt.

*S.Nos.249,250,252-3
259-9,261,265
267-9.

The facts of the case are briefly as follows:-

Four Sarvamanya villages Viz., Hosahalli village Sravanabelagola village, Vallemahalli and Kabbalalu villages measuring a total extent of 2967 acres and 1 gunta and bearing an assessment of Rs.2683-5-0 have been endowed for the ~~upkkkk~~ upkeep of the Mutt and 32 temples, and out of these a total extent of 178 acres 31 guntas of land bearing an assessment of Rs.592-1-0 as noted in the margin* is in the khate of Sri Mutt. The Sarvamanya villages were taken under Government management from 19-6-1874 as per Chief Commissioner's order No.2080-29 dated 19th June 1874. The lands in the khate of the Mutt seem however to have continued to be in the possession and enjoyment of the Mutt, and in order No.355/23 dated 17th April 1882 Government directed that the Mutt should ~~be~~ in future pay the kandayam on these lands. The Swamigalu as the Trustee of the Mutt proposed that the lands in the khate of the Mutt might be taken possession of by Government and managed along with

Sravanabelagola A. 177-38 Assessment Rs. 588-4
Kabbigalla 0-20 24
Vallemahalli 0-13 1-12
A. 178-31 Rs. 592-4

other properties, the income realised being made available for the purposes of charity, and accordingly the Muzrai Commissioner directed in his Order No.C.1064/34-35 dated 20th October 1936 that the properties might be leased out to the best advantage of the institution. Action was accordingly taken to lease out the lands in question. The petitioners, who felt aggrieved by this order, presented a petition to the Muzrai Commissioner on 23rd November 1936, alleging that they were kadim tenants and that in the course of the Record of Rights enquiry, the Amildar had conceded this, and directed the insertion of their names in columns 14 and 15 of the preliminary record and that the Swamigalu had appealed against this order to the Sub Division Officer and that in the meantime the lands were proposed to be leased and that, if this was done, it would cause them loss. The Muzrai Commissioner issued a stay order, and called for a report. But subsequently, on the report of the Deputy Commissioner that the Amildar's order was in appeal before the S.D.O., the stay order was withdrawn, and the question of staying further proceedings was left to the D.C., and the petitioners were also informed accordingly.

The S.D.O. passed orders on 5-6-37 allowing the appeal of the Swamigalu, and held that the appellants (before Government) could not set up a claim to be the full owners of the land or to have acquired rights adverse to the Mutt, and the Mutt should be regarded as the 'occupant' and that its name should be entered in the Final Record. He observed that the alternative claim of kadim tenancy was not the issue in this case and that this should form the subject matter of a separate enquiry, and the rights should be established in a proper Court of Law. He further observed that in the absence of satisfactory evidence the presumption is against the permanent tenancy, particularly as this was a case of lands endowed to a religious institution. A revision application having been filed against this decision before the D.C., the latter agreeing with the

S.D.O. dismissed the petition.

The appellants preferred an appeal to the Muzrai Commissioner who dismissed the petition on the ground that under the Record of Rights Act no appeal lay under the statute from the orders duly passed after enquiry by the S.D.O. and the D.C. and on the further ground that the Government had decided in their order No.1726-72 dated 6-6-1889 that kadim tenancy rights could not be conferred on these ryots who were merely tenants-at-will. The appellants have appealed to Government against this order. Their contentions are as follows:-

(1) That orders have been passed exparte without an enquiry or a hearing, although the case was remanded to the Deputy Commissioner by the Muzrai Commissioner and that the offer of the appellants to adduce materials in support of their case has been rejected.

(2) The appellants have been in possession as kadim or permanent tenants from time immemorial.

(3) The orders under the Record of Rights Act cannot constitute a basis for a decision on the points involved, as they should form a subject of separate enquiry and proceedings.

(4) The G.O. of 1889 related to some other properties situated near Hosahalli, and has not been properly construed, and has no bearing on the lands in question.

(5) The appellants' claim is supported by documents of 17-4-1803 i.e., long anterior to the grant of inam which was in 1830.

(6) Although the G.O. was passed in 1889, for nearly 50 years the appellants' rights of Kadim or permanent tenancy have not been questioned, but on the other hand, Kandayam has been collected on this basis.

Assistant Secretary A. vide dt 13-10-38

The Muzrai Commissioner in his endorsement to the appellants dated 30-10-37 stated that G.O.No.1726-72 dated 6-6-1889 has definitely declined to confer kadim tenancy rights and ordered that these are all mere tenants-at-will. He has further stated that in the Record of Rights enquiry it has been held on appeal that the lands belong to the Mutt and that as under the rules no appeal lies, the Deputy Commissioner's ord confirming the sales is in order.

The appellants contend that the Government Order of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppal, and that even the Record of Rights left the question of kadim tenancy open (Vide Sub Division Officer's Order) and that the appellants have been in possession of the lands even long

before they were granted to the Mutt as inam and that they not been afforded opportunities to present their case prope and to adduce evidence before the authorities in support of case. The records do not show however, that any such enqu has been held. As it is proposed to evict the appellants the lands of which they purport to have been long in posses a detailed enquiry seems necessary and the appellants shoul be given all possible opportunities to adduce all evidence their favour. In this view the case may perhaps be remand for disposal as ordered by the M.C. in another case (Vide O dated 27-12-1934 in Appeal No.15/33-34).

General Secretary's Query dated 17-10-38. (Page 16)

Is Nagaiyanakoppalu a separate village or is it a haml of Sravanabelagola village? Is it true that the G.O. of does not apply to the lands in Nagaiyanakoppal now referred Is the case of these lands different from that of the lands dealt with in the 1889 Order? The S.D.O. said that the que of kadim tenancy would have to be examined. Does the M.C. sider this unnecessary?

Assistant Secretary's Note dated 31-10-1938.

Nagaiyanakoppal is not a separate village, but is only hamlet of Sravanabelagola. The G.O. of 1889 related to 62 acres and 5 guntas of land (S.Nos.141, 26 and 25), and the present case relates to 14 S.Nos. comprising of 44 acres and There is nothing to show that the lands are identical. In f the appellants contend that they are differenc. While in th former case, the parties were found to be in possession only Varam tenants, the appellants urge that they have been in possession of the lands from long prior to the grant of the l to the Mutt, and that they are in possession of documents sup ing their contention.

As regards the S.D.O.'s observation that an enquiry of

of kadim tenancy rights might be made, the M.C.'s order shows that this unnecessary, as apparently he holds that the G.O. o 1889 concludes the case of the appellants also."

en.Secy.'s note - 1-11-1938.

11. The claim of the appellants does not seem to have been examined on merits. The case may as suggested by the Assistant Secretary be remanded, and stay order given.

12. A stay order was issued under the orders of the Me and the case was posted for hearing on the 9th February 1939. After hearing the parties the Member was pleased to direct t further enquiry might be made on the points requiring elucida The Muzrai Commissioner was therefore addressed in letter dat the 25th February 1939 to enquire into the matter in detail affording the appellants an opportunity to adduce such eviden as they may choose to let in, and submit a report together wi findings on the following points:

(a) Whether the Order of the 6th June 1889 applies to the lands in question: and

(b) whether the appellants are permanent or Kadeem tenants.

13. The S.D.O. has held an enquiry and examined 14 witnesses on behalf of the appellants. Several exhibits have been filed on behalf of the appellants and on behalf of the ~~temple~~ Mutt. For reasons explained in his report dated the 2nd November 1939, he has held that the Order of 1889 holds good respect of similar lands on Nagayyanakoppal Hamlet of Srava belagola, as it does not refer to any particular village alleged by the appellants. In regard to the other point reference, he is of opinion that the appellants cannot

kadeem

permanent tenancy rights over the lands under dispute, and cannot be regarded as kadeem tenants in view of the G.O. referr to above and that therefore the appellants are mere ordinary ryots with a right to cultivate the lands with liability to pay rent either in cash or in kind.

14. As regards the alienations and other transactions connected with the Survey Numbers in question, the S.D.O. state that they cannot bind the Mutt or the Swami who was not a party to any one of them.

15. The Deputy Commissioner and the Muzrai Commissioner agree with the findings of the Sub Division Officer.

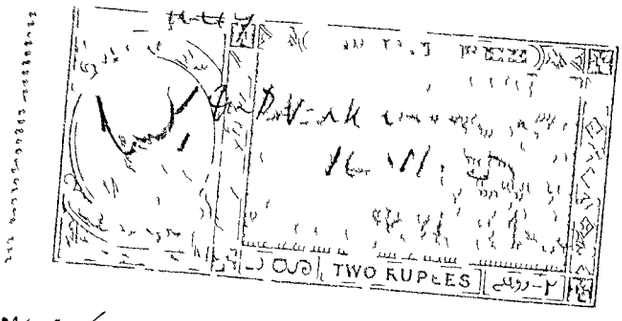
In this connection kind reference is invited to a similar case in which one Hanume Gowda claimed kadim tenancy as the alienee of Survey No. 74. The then Muzrai Commissioner (the present Dewan) ordered in that case as follows:-

N

71, 74 & 165 of Sravanabelagola & 61 Sarvamangala village

~~Rakhxkhaxrespondentsxclaimxthatxtheyxarexkadinxtan~~ As the Survey Nos. in question are portions of the Inam village endowed to the temples, their alienation may well be dealt with under Sections 9 and 10 of the Regulation. It is not open to the Guru who is in the eye of the law only the vahivatdar of the temples much less to the agents of the Mutt, to alienate these lands. The claims of the respondents in so far as they purport to be based upon a grant from the Swami or upon purchase from the Agent must therefore be said to be untena ble. They can only succeed if they are able to show that they acquired kadim tenancy rights by reason of adverse enjoyment for the requisite length of time under the religious and Charitable Institutions Regulation or by the operation of the ordinary

tenancy law. These points should be gone into. The case is therefore remanded for enquiry and disposal to the Deputy Commissioner with reference to the proviso to Section 10 of the Religious and Charitable Institutions Regulation and Sections 79 and 84 of the Land Revenue Code. There is no occasion to refer the parties to a Civil Court.



Muz 151-37-1.

No 1372 Muzrai 151-37-1 & 25-37-38

Revision Petn

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

of MYSORE IN BANGALORE.

Muzarai No 12 of 37-38.

Appellants:-- 1. B. P. Bhujabaliah.

2. Rangegowda son of Nanjegowda.

3. Rangegowda son of Ramegowda.

4. Ramegowda son of Govindagowda.

5. Lennappagowda son of anjegowda.

6. Lakkapa alias Lempegowda.

7. Chickeeregowda.

8. Ramegowda son of Lellegowda

9. Lakkegowda

all at and near Sri Gnabelagola,

Chennarayapatna Taluq,

Hassan District.

- Vs

Respondent:-- Sri Swamigalu of Sravanabelagola

Mutt, Channarayapatna Taluk,

Hassan District.

Under Section 38 of Mysore religious and charitable Endowments Regul tion the appellants abovenamed beg to prefer this appeal from the order of the Muzrai Commissioner, in uz. appe 15 of 37-38 on the following amongst other grounds.

1. Although the subject matter of the case consists of 14 survey numbers viz. as noted in the margin to the order of the lower court of

of which three are gardens, 6-15 guntas in extent with a total assessment of 18-5-0 and the rest about 37 acres and odd in extent with a total assessment of about Rs.70/-, and the effect of the orders now passed is a complete negation of long-established rights, the lower courts have disposed of the matter without affording the appellants any opportunity for making the representation. The procedure adopted in passing orders exparte against the appellants, notwithstanding their repeated applications both before the learned Deputy Commissioner and learned Muzrai Commissioner for an enquiry and a hearing, is manifestly contrary to law and has occasioned a failure of justice. A reference to the records will show that although the case was remanded to the Deputy Commissioner at the appellant's instance by the Muzrai Commissioner making the appellants understand, there would be an enquiry the Deputy Commissioner not only failed to conduct any such enquiry himself, but also rejected the appellant's offer to adduce -- materials in support of their contention. It is strange that even the Muzrai Commissioner though apprised of this and further requested to give the appellants an opportunity to make a representation has without doing so rejected the appeal. Even copies of the orders passed in the case as furnished show that the documents, records, etc in support of the appellants have not been noticed at all although the proceedings under the Record of Rights Regulation in the course of which these were produced before the Amildar of Channarayapatna, are referred to. The appellants beg to submit

submit that the manner in which the appellants are dealt with, their claims rejected and ~~the~~ sweeping orders are passed against them is highly arbitrary and opposed to law and principles of justice.

2. The learned Muzrai-Commissioner has failed to see that in view of the appellant's contentions of their being entitled to the survey numbers in question as Khadim or permanent tenants without being liable to be disturbed in regard to possession there of which they are enjoying from the time of their ancestors and from time immemorial, It is not open to the authorities without a formal enquiry, as enjoined by law, to deprive them of such possession. So far there has been no such enquiry by any of the Muzrai authorities at all. In connection with entries to be made under the Record of Rights Regulation the Amildar Channarayapatna held an enquiry when the appellants to have their names entered in the Revenue accounts as permanent tenants with respect to these survey numbers produced several records and documents. The Amildar after examining these and their persons on behalf of the Respondent as well as their records ordered on 20-8-1936, upholding the appellant's claim, Copy of this is appended hereto. On appeal the Assistant Commissioner Hassan district in Rev. appeal 16 of 36-37 reversed this in his order dated 5-6-1937 stating however that the pleas of permanent tenancy adverse possession etc. setup by the

the appellants must form the subject matter of a separate formal enquiry and holding that it is not possible to give a decision on these points. The Deputy Commissioner in R. R. Mis. Case No. 1/37-38 merely confirmed this in his order dated 22-7-1937. It is thus evident that the orders under the Record of Rights Regulation cannot constitute a basis for a decision on the points involved for determination in the present proceeding which is governed by a different branch of law as well as by other considerations. In so far as the proceedings under the Record of Rights Regulation are relied upon in support of the order passed against the appellants, it is unsustainable.

3. The G. O. No. 1726-72 dated 6-6-1889 referred to in the order of the lower court is not properly construed, nor is its bearing on the lands in question considered. As a matter of fact the lands with respect to which the said order was passed are altogether different from those in question now as is apparent from the extent, situation, parties concerned and other facts. The extent of the properties involved for decision then was 62 acres and odd, whereas that of those now in issue is 44 acres and odd. Those lands were situated near Osahalli anotner inam village of Respondent Mutt, whereas the appellants' lands are situated in Nagayyankoppal. Further the appellant's claim is supported by documents dated so far back as the year 17-4-1803 granted by the Amildar and as such even prior to the

the grant of the inam which was in the year 1830. It is significant that the Sanad itself mentions that the grant is of the Cash income of the Suvarnadaya and not the lands themselves. In fact the village itself is styled Nagayyankoppal because it was founded by one Nagian and in consideration of this the lands were granted to him with rights of permanent tenancy. Some of the appellants are his decendants and the rest are transferrers of the rights of the original founders. It is also learnt that even now the lands situated in Tabbalu, Hosahalli, Betanakoppal and Uthenahalli, which are inam villages like Nagayankoppal of the Srimutt are held by the persons in occupation thereof as permanent tenants and that the Respondent is collecting merely the Kandayam thereon which is credited to the mutt fund. Further more there are several lands which are being cultivated through the agency of the srimutt in these villages quite apart from the lands with respect to which only the Kandayam is being collected all along. The lands to which the aforesaid Government order applied are thus quite distinguishable from the lands of the appellants and as such these are to be dealt with quite independently of the said Government order.

Having regard to the fact that although nearly 50 years have elapsed since the said Government order was ~~xx~~ passed, neither the Srimutt nor Government has ever so far questioned the appellants' rights as permanent tenants and on the other hand chosen to collect merely the Kandayam of the lands it is not open to the Respondent now to dispute the appellants' rights. The orders of the lower

lower courts are vitiated by a misapprehension of this aspect of the matter. The very notices issued from time to time by the Respondent demanding Kandayam, the receipts granted for such payment, partitions and divisions effected by the holders of these items, Revenue sales and Civil court sales, registered deeds of sale exchange, mortgage etc, abundantly prove that the appellants' rights are long established, well recognised and not liable to be questioned by anyone, only once and that in 1926 an attempt was made to bring about an auction of the lease of these lands by Government, but on appellants' protests this was droped with reference to these lands, though the other lands of the Respondent were actually auctioned. One of these lands has been proceeded against by the Deputy Commissioner for recovery of a private debt and yet the respondent raised no objection. Thus even a superficial consideration of the circumstances will show prima facie that the orders passed are unjust and unjustifiable. The appellants are prepared to prove to the hilt their rights if only there be a proper enquiry. To their misfortune their cry has been a cry in the --- wilderness.

4. The observation in the order of the lower court that each of the appellants should have filed a separate petition is not correct or warranted by law. The point for decision with respect to each is identical and the questions of fact for consideration are also common. In these circumstances the appellants are entitled to conjointly file a suit in the civil court if possible and it is not apparent

apparent why in the absence of any different provision under the Muzrai law, the same principles cannot apply to the present case.

5. Questions of limitation estopal are involved for decision and valuable rights exercised and enjoyed for over a century are to be adjudicated upon. The orders of the Courts below are much too arbitrary and summary as no consideration is shown to the equities in favour of the appellants or their contentions.

6. The manner in which the appellants are sought to be deprived of the properties which they claim to be theirs and of which they have been admittedly in possession all along is also unjust and unwarranted, as the law expressly requires that a previous notice should be served upon the appellants and a period of 6 months should elapse there from before there can be a lawful ouster. In the present case no such notice has been issued at all and actually rejecting appellants' prayer for enquiry and relief, the local authorities are trying to terrorise the appellants by threats of criminal proceedings and infliction of punishments and other devices to give up the lands. The learned Deputy Commissioner is not pleased even to receive any petition in this behalf from the appellants and summarily returning the same. The one thus returned with a note made by the clerk then present in court is hereto attached.

7. The appellants are agriculturists entirely depending on the properties in question

question for their support. If they are deprived of these they will be virtually ruined in life and rendered destitute. The properties as a whole are worth more than 5000/- rupees. There are lease deeds in writing evidencing the gutta tenare of the lands really of the mutt but with regard to the appellants' lands the appellants ventured to submit that there is absolutely no document executed by them or by their predecesors in title to disprove the appellants' claim. If the view now out forward that the appellants are tenants should be true it should be possible for the Respondent to produce documents or other proof. But this is totally lacking

8. The appellants therefore pray that the Government will be kindly pleased to call for the entire records, afford the appellants an opportunity to represent their case and reverse the orders of the lower courts as otherwise there will be irreparable hardship and suffering to the appellants.

Bangalore,
Dated 16-11-1937.

R. Venkata Ramanja
Advocate for appellants.

829/Mez 151-37-3 & 2-12-37.
Forwarded with compliments to the Mezrai Commissioner for Submission of entire records connected with the case —
By order
[illegible]
for General Secretary to Govt.
Ex 1/12

Recd 5/12/37

వ్యాజ్యసంఖ్య నిర్ణయించు మధ్యవర్తి
శ్రీ విశాఖపట్నం వారి ముందు.

మధ్యవర్తి వారిని ప్రతివాదులు నంబరు 15/37-38.
Dated 30-10-1937.

అప్పీలు వాదిగళు	ప్రతివాదిగళు.
ఛిన్నమస్తా చల్లాయమ్మనే వచ్చేరి 1 ంచిన గళు నాగ్లాయమ్మన కొప్పలు నిమిన్నరాయం వీరభద్రం శాల్మన్లకు.	స్థలము మరి రామ్మాయమ్మ ఎనిశి 7 గు, నాగిలాయమ్మన కోడళ్లలు. భర్తృదారు, దత్తనిరాకరిల్మన్లకు.

శ్రీ శ్రీవత్సవాచిళ్ళసీతాళ్ళ మరియు మాశీంయుల్లగు
2421, 2550, 2552, ఇవ ఇళీచిన్లగుండ
2553, 2555, 2556, నాగిలాయమ్మన కొప్పలు
2557, 2558, 2559, గ్రామద నివేదనంబరు
2611, 2615, 2617, గళ కందాయద హక్కు
2618 & 2619. మాత్ర శ్రీమతళ్ళి ఇరుత్తిరువ

లూళీజ మీనుగళ అనుభవ శిమ్మ బేంశలూ,
ఈజ మీనుగళు శ్రీమతళ్ళి కొరిబేడదు
ఇవుగళ శుత్తిగి రురాజు తొళ్ళుటకేమొప్ప
నరవరు మంజూర్మాడిరువుదు నిరింయుల్లగు
వేందు అపీలు వాదిగళు తందిరువ
అపీలు అజ్ఞ శ్రీశవాయ్యు.

శ్రీమరద మాశీంయుల్లిరువ
జ మీనుగళ విచారదల్లి కద్రింశ్రీశ
హక్కు కొడతలు సాధ్యవిల్ల వేందుస్సు,
ఈ శ్రీశరు కేవల Tenants-at-will వంత
లూ శాశ్వతమ్మాంలుసింద 6-6-1889 సి
మరుగుంద 1726-72 సి నంబరు ఆజ్ఞదల్లి

ప్రీ రాష్ట్రం నుండి కుటుంబ సంబంధాలతో
అమీలు అల్లుడు దాదరు తిరిగి ఆఫీసర్లను
లోబ్లుగళ్లను రవ్వు జిగరు దాఖలాగి
రు కోందు బరిదు కొండి అనుమతిగళు
సర్వ్-డివిజ్ అధికారిందర క్రమవాగి
విళంబరహిత యుం ఫలితశీలతిగళ్లుబ్బు,
ఈ పిటిషన్లు శ్రీ మురళీధర నిధనర
పరాగి అమీలనగ్లియూ శిష్యుడుంబమిళా
ఫుగారవరు సబ్-డివిజ్ అధికారవర
అధికారవ్వు మంజూరిసిరుత్తారే. ఈ
ప్రతియన మోలే పునరుక్తాంచూని
రదిల్లి అమీలు నీడువుదిల్ల. శిష్యుడు
కటంబాయుగారు విచారనయిని ఉదాజు
మంజూరు మాడిరువుదు సరియాగి
రుత్తే

ಸು. ಅಲ್ಲಿಂದ 10 ಮಿನಿಟಗಳು ಬಿಟ್ಟು
ಬಂದ ಅಮೀಲು ದಾಖಲಾತ್ಮಗಳು
ಗಳಾಲ್ಲಿ ನಂತರ ಪ್ರವೇಶಿಸಿದ್ದು. ಈ
ಕಾರಣಗಳಿಂದ ಅಮೀಲು ಅಧಿಕಾರಿಯನ್ನು
ತಿರಸ್ಕರಿಸಿರುತ್ತೆ.

Sd/ K.V. Anantaramaiah
Asst: Comr

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G. Srinivasa Murthy
Manager
Asst. Comr's Office

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Compared by S Jagannatha Rao

Opinion of the Amildar.

O r d e r.

This is a case of dispute re. transfer of Khata to Sree Jain Mutt of Sravana Belagola on one side and the Ryots of Nagenakoppal, Dhakhale of Sravana Belagola village, on the other side in respect of the lands situated in an Inam village granted to Sree Jain Mutt in Channarayapatna Taluk.

1. Under Section 10 of the Mysore Religious and Charitable Institutions Regulation, Sree Swamigalu has to prove adverse possession of the lands to the Sree Jain Mutta. In the statement given by Mr. G.S. Nemichandriya, the Mutt parapatyegar on 20-10-35 before the Special Deputy Amildar (pages 9 and 10 of the case file),he says that the lands were given to the ryots of Nagenakippal on terms of lease, to some of them on payment of cash to the Mutt and to some on payment in kind. He has not however produced any lease deeds and other vouchers in support of this statement though sufficient time was given to him in the matter.

11. The lands in question were taken delivery by some of the Ryots of Negenakoppal in accordance with the civil court decrees passed on various occasions and in turn such lands were again sold by them to others in private transactions During such succession transactions the Mutt authorities did not intervene and claimed the lands as belonging to the Mutt.

111. Some of the lands which were in possession of the Ryots of Negenakoppal from a very long time were sold by Government for arrears of Revenue due and the said lands were confirmed in the Revenue Sale to the purchasers of the Respective lands. Even during this occasion the Mutt did not represent the facts to Government, settle the arrears due and got the lands restored.

IV. Some of the lands in question were apportioned between the brothers in certain families and they in turn sold such hissas to others and in a few cases mortgaged them. The Mutt did not take cognizance of the said transaction.

V. Sreekantia, the shanbhogue of Iram villages including Nagenakippal, Pakhala village and Linganniya, the Mutt Shanbhogue have written various sale and mortgage deeds which have been got registered. If they knew that the lands belonged to the Mutt, they would not have written them. Taking these into consideration the Mutt authorities have no adverse possession in respect of the lands in question and they did not produce any documentary evidence to establish the right of the Mutt over the lands, though plenty of time was given to Sree Swamigalu as desired.

It is seen from the various documents produced by several of the ryots that the Ryots of Nagenakoppal have been in possession of the lands from a very long time. Many of ~~th~~ the Ryots got the lands from their ancestors and some by gift, sale, mortgage and other transactions. The other Ryots purchased the lands in the open sale held by Government agency for default of payment of arrears. In certain cases crops were attached by Government for the realization of revenue arrears. The Ryots have produced documentary evidence, sale deeds, and long standing Receipts for having paid Kandayam to the Mutt for More than 12 years. The Ryots were heard throughtheir Counsel Mr. H.S. Gundanna Gowda, Advocate, Hassan, The statements of the parties recorded from time to time are enclosed in the Records. Section 30 of the Mysore Religious and Charitable Institutions Regulation under which Sree Swamigalu desires the case to be examined (vie para 7 of the Reference

dated 29-6-36 from Sree Jain Mutt) is applicable only to Inam lands. The lands now in dispute are not Inam lands. They are situated in an inam village. In dispute like the present one this court has no power to interfere and take action under the aforesaid Regulation, the dispute being between the Inamdar and the tenants. The partieshave to settle the same in a proper court of law. I therefore order that the names of the appellants in re. to hissas in the lands noted against their names subject to verification with the accounts. viz. Messrs. (1) Appanniah, Re.S.Nos. 258,259&268, (2) B. Bhujaballaya, 269,257,253,256, (3) Puttaswamigowda 267, (4) Manjundegowda, 259, (5) Naunjundia 259,256, (6) Yernappa, bin Manjegowda 256, 257, (7) Chikka-Veeregowda 250, (8) Ramiva 250,265, (9) G.N. Ranjegowda 252,255,257,256, (10) Ramegowda 258,268,269,(11) G.N. Yennappagowda (S.No. to be ascertained) (12) Lakkappa 256, 259, and other concerned Ryots. S.No. to be ascertained of Nagenakoppal village (Vide petition dated 1-8-36 attached to the case file) should be entered in cols. 14 & 15 of the Preliminary Register and also in the Record of Rights.

The Ryots of Nagenkoppal represent that the sharbhogue of Sarva Manya Inam villages may kindly be authorised to collect direct from the Ryots the Kandayam due to Sree Mutt on issuing proper Receipts as in being done in other Inam villages as this system would give the Ryots ample opportunities to ventilate their grievances, if any, to the Revenue authorities during the time of Jamabandy and other occasions. I feel that this system would not inconvenience any party and on the other hand it would fecilitate the work of Government and also of the Sree Mutt and would avoid lot of further complications.

Seperate orders will be issued in this matter. Reference to be made to Sree Mutt and erdorsement issue to Ryots of Negenkoppal village (S.Belagola) Sd/- M.S.Srinivasalu Naidu, Amildar.

"True Copy" 20-8-36

In the Court of the Assistant Commissioner, Hassan Sub-Division.

Dated:

Present:-- K. Madhava Rao Esqr., B.A., Assistant Commissioner.

Revenue Appeal No. 16 of 36-37.

Appellant:--		Respondent:--
Sri Jain Mutta, Sravanabelagola, (Through the Parpatheyar)	--VS--	1. Bhujabalaiya, 2. Puttasamigowda, 3. K. Nanjundegowda, 4. G.N. Yernappegowda, 5. Nanjundiah bin Nanjegowda, 6. Yanniappa, 7. Ramiah bin Yallegowda, 8. Chikkeeregowda bin Eregowda 9. Kalegowda bin Kalegowda, 10. Ramiya bin Govindegowda, 11. Lakkappa lias Kempegowda, 12. Rangegowda bin Nanjegowda, 13. Ramegowda bin Annegowda, 14. Appanniya bin Annaiyappa

Subject:--

Appeal against the order of the Amildar, Channarayapatna taluk, (No. Dis. 5/35-36 dated 20-8-36) directing the registry of the names of the respondents in Cols. 14 and 15 of the Preliminary Record Register, and in the final Record of Rights in respect of S. Nos. 249, 250, 252, 255, 256, 257, 258, 259, 261, 267, 268, 269, of Sravanabelagola village which are in the khate of the Mutt.

Facts of the Case:-- Appannaiya son of Annaiyappa (Respondent 14th) of Sravanabelagola, Petitioned to the Amildar, Chennarayapatna on 16-9-~~36~~ 1935, stating that before Sravanabelagola village became Sarvamanya for the Mutt, there was no village called Nagayyana Kippal behind the hill that at that time S. Belagola was part of old Kikkeri Taluk, and that the then Amildar granted many lands for cultivation to his great grand father, Nagayya, with the direction that he should build a new

new village: that accordingly after the village was built, Sravanabelagola became Sarvamanya for the Mutt and prayed that S.Nos. 130, 127, 119 which were continuing in the Khate of the Mutt wrongly and which were in his undisturbed possession for many years may be registered in his name. This petition was registered as a disputed case and the Amildar held the necessary enquiry and passed the order under appeal directing the entry of the names of the respondents in the P.R.Register and the Record of Rights, in respect of the members as noted above. It is against this order that the present appeal has been preferred.

The following are the grounds urged in the petition:--

(1) That the action taken in the Lower Court on the assumption that the lands in dispute belonged to Nagayyanakoppal is incorrect in as much as all these lands and many more lands belong to Sravanabelagola village.

That when there was no head for the Mutt before the present swamigalu ascended the peeta and after the demise of his predecessor, the Government were managing these lands, and had reserved them for disposal for a five year lease sale, and that after the present Swamigalu came to be the Head of the Mutt, these lands were transferred back to the possesion of the Mutt for being cultivated to the best advantage of the Mutt.

3. That Sravanabelagola village, is a Sarvamanya endowed for the temple and that the several sevas are being conducted in the 32 temples out of the income derived from the Mutt.

4. That Govt. are aware that, in addition to this village, there are other Sarvamanya villages for the Mutt.

5. That from the references available in the Mutt, it is seen that the 32 temples being the inamdar', when the previous Swamigalu was managing the many properties of this village and

was

was having them cultivated under Varam tenure, some people among the villagers petitioned to Government praying that upset price may be recovered on their lands and the lands registered in their names: that then Government instituted necessary enquiries about the rights of people over these lands and ~~decided that these lands~~ and decided that these lands should not be disposed of to others but should be transferred to the khate of the Mutt and leased out or Varam tenure and passed orders accordingly and communicated the same in their no. 1726-72 dated 6-6-1889: that the village of S. Belagola being under Government management: if the Amildar had perused the Huzur Jamabandi accounts passed up to end of 35-36 and the documents of the Varam Saguvalidars, he could have been convinced about the manner of rights, thatthese people possessed and he would have known how the ryots were putting forward unnecessary claims as to their rights taking advantage of the introduction of the Records of Rights.

VI. That if it had been noted every year that the khate of these lands was continuing in the name of the Mutt on the authority of the above Govt. Order, there would have been no difficulty to settle the rights when Record of Rights, had to be introduced, that it is not known why the fact of these lands (that were not - settled as other lands) continuing in the Khateof the Mutt was not noted in the accounts year after year.

VII. That if the Amildar, had perused the records relating to the lease sale of these very lands held in 1926-27 by Government When there was no Swamigalu, the falsity of the respondents' right would have been proved and the Amildar would not have been party to the creation of new occupancy rights that he had attempted.

VIII. That he being only the Vaivatdar of the inam lands belonging

belonging to these temples, it is only his duty to bring to the notice of the authorities, the unauthorised alienation of the lands etc., in view of to see that the object with which the inams were created by Govt. was not frustrated, and that when this is done, if how rights are going to be created in favour of the ryots instead of their extinction in course of time, the object of the Endowment will be frustrated.

10. 9. That he (Swami) sent for the cultivators of these 14 S.Nos. and advised them not to pursue their false claims and as a result some of them executed lease deeds in favour of the Mutt and they are produced herewith for reference and return.

For the foregoing reasons and other reasons, the appellant states that the Order of the Amildar which was passed without looking into the documents that might have been available in the Mutt is opposed to law and has created new rights adverse to the institution and prays that the same may be set aside.

Messrs. N.S. Nanjundiah and M.R. Narayana Rao appeared for the appellant and Mr. H.B. Gundappa for the respondents.

On behalf of the appeallant, it was contended that the entire village of Sravanabelagola is Sarvamanya endowed to the 32 Jain temples, the appellants being the manager of the - properties, that under Sec. 9 of the Religious and Charitable Institutions Regulation, without a general or special order of Govt. Now alienation of such inam lands endowed to religious institutions is valid, that there is no such sanctio in the present case, that the Mutt has never recognised any rights in the inam lands adverse to itself and that it is not a party to any of the transactions that may have taken place

between the raiyats in these lands, that the Mutt has not given any pattas to any of the respondents, that the plea of adverse possession set up by the opposite party cannot be considered. In the absence of the necessary ingredients constituting adverse possession the presumption in the case of temple lands is against permanent tenancy.

The case for the respondents is that they have been in continuous and uninterrupted possession and enjoyment of thelands for over a century, exercising all the rights of full owners in respect of these lands without question. In support of the above they are prepared to produce Civil Court and Rev. Sale Certificate and registered documents. It is further contended that the names of the respondent's is to be found in the Mutt Registers: the payment made by them to the Mutt being described as Kandayam and not as rent. The respondents are stated to have been contesting the superior rights of the appellant to lease out the lands in dispute all along and lease sales having been attempted in 1926 and 1929 were not held because of the protest made by the ~~xxxxxxxxx~~ respondents. The statement made by Sri Kantiah, Shanbhogue of the Mutt, that the respondents are the anunbhavadars of the lands in dispute is, it is contended, by itself sufficient proof of ownership. It was argued that the appellants failed to get the claims recognized before the Amildar in spite of opportunities afforded and that no lease deed or document to show that the payment made by the respondents is Varam has been produced by the Mutt. Finally it was stated thatif full ownership in the lands cannot be conceded to the respondents, they would be satisfied if they are registered as kadim tenants under the Mutt.

O r d e r.

Heard Messrs. N.S. Nanjundiah and A.R. Naravana Rao for the appellant and Mr. H.B. Gundappa for the respondents.

The order of the Amildar under appeal reads as follows:-- " I therefore order that the names of appellants (respordents in this Case) in respect to hissas in the lands mentioned against their names subject to verification of accounts and other concerned raiyats should be entered in Columns 14 & 15 of the Preliminary Register and also in the Final Record of Rights Register". The Amildar's Order is vague. The nature and extent of the rights of respondents.in each S.No. is not gone into. Even the actual extents in their respective enjoyment are not specified. The proviso about the verification of accounts and the words "other concerned raiyats "leaves the entire question open. The ~~xxxx~~ order is inconclusive besides being indefinite and is therefore set aside

I have gone carefully into the arguments on either side The lands in disputebeing situated in a Sarvamanya village endowed for the upkeep of certain temples, no alienation of such lands would be valid without the general or special orders of Government. In this case no such orders are fortcoming. The respondents themselves admit paying the assessment on these lands to the appellant Mutt in whose khate they have stood all along. The Mutt has been managing the property and keeping regular accounts of the amounts which the respondents have been paying all along without demur. The respondents cannot therefore at this stage set up a claim to be the full owners of the lands; It is also seen that the Mutt has not been impleaded as a party in any of the disputes

between

between the respondents or their predecessors in civil courts. They cannot therefore claim to have acquired rights adverse to the appellant mutt. Whatever may be the rights of the respondents the interests of the Mutt in the lands remain unaffected. Without doubt therefore the appellant Mutt is to be regarded as the "occupant" of the lands under dispute within the meaning of the term as defined in the Record of Rights Regulation. The entry made in the Preliminary Register is quite correct and is restored. Necessary entries will be made inthe Final Record of Rights.

The respondents have stated that if their names cannot be entered in the Record of Rights as owners they would be satisfied to be registered as Kadim tenants atleast. Whether the respondents are Kadim tenants or not is not the issue in this case. Such a question must form the subjects matter of a separate formal enquiry. Although there is evidence of long possession on the part of the respondents it is not by itself a conclusive proof as to tenure. Under Sec. 79 of the Land Revenue Code in the absence of satisfactory evidence the presumption is against permanent tenancy, particularly so in the case of lands endowed to a religious institution as in the present case. It is not therefore possible to give a decision on the point and it is open to the respondents to get their rights, if any, established in a proper court of law.

The appeal is allowed. The parties will be informed accordingly. The stay order issued by this office is withdrawn

Sd/- N. Madhava Rau,

"True Copy"

5-6-1937.

Copy application dated 5.11.1937 from Mr. Shufabaliah s/o Puttappa of Shravana-Belagula village, in Channarayapatna Taluk-praying for the grant of copy of order passed on 22.7.1937 in this office no. Rev.C. 3714/36-37. regarding the lease/sale of the lands standing in the bahathe of the Sri Jain Mutt at-Shravana Belagula, Channarayapatna Taluk.

ರಾಷ್ಟ್ರೀಯ ದಿಕ್ಷಿಣ್ಯ ಪಡೆದ ಹೈಕಟ ಮೊಹಸೀನ್ ಸಾಹೇಬರವರ ಅರ್ಜಿಗೆ ನಿಂದ್ಯಾ:-

ಅರ್ಜಿದಾರರು: ಚನ್ನರಾಯಪಟ್ಟಣದ ವಕೀಲರು ನಂಗಯ್ಯನವರು

ಕೌಂಟರ್ ಪಿ. ಪ್ರ. ಭುಜಬಲಯ್ಯ: (2) ಲಿಂಗೇಗೌಡ, (3). ಲಿಂ. ರಾ. ಮೊಗಡರಮಗ ರಂಗೇಗೌಡ ಮತ್ತು (4) ಪುಟ್ಟಸ್ವಾಮಿಗೌಡ

ಇವರುಗಳಿಗೆ:- ಸೈಂಡಾರ್ಡ್:-

* ಈ ರೇಚಿನಲ್ಲಿನಮೂದಿಸಿರುವ ವಿಷಯದಲ್ಲಿನ ಈ ಅರ್ಜಿಗೆ ದಿನಾಂಕ 22.7.37ರಲ್ಲಿ ಬರೆದುಕೊಂಡಿರುವ ಆದೇಶವಾಯಿತು. ನಿಮ್ಮ ಸಲ್ಲಿಸಿರುವ ಅರ್ಜಿಯಲ್ಲಿ ಮೇಲ್ಕಂಡಂತೆ ಆದೇಶವಾಗಿರುವುದರಿಂದ ಈ ಆದೇಶದ ನಕಲನ್ನು ನಿಮಗೆ ಕೊಡಲು ಆಗುವುದಿಲ್ಲವೆಂದು ತಿಳಿಯಪಡಿಸಿದೆ.

ಸೈಂಡಾರ್ಡ್:-*

ಚನ್ನರಾಯಪಟ್ಟಣದ ವಕೀಲರು. ಪ್ರಮಾಣಪತ್ರಗಳ ಪಟ್ಟಿ ಸಹಿತ 249-250, 252, 253, 255, 256, 257, 258, 259, 261, 265, 267, 268, ಮತ್ತು 269ನೇ ನಂಬರುಗಳಿಗೆ ಮೊಹರುಗಳನ್ನು ಅಂಟಿಸಿ ಕೊಡಬೇಕೆಂತಲೂ, ಅದಕ್ಕಾಗಿ ರೂ. 10-ಗಳನ್ನು ಸಲುವಡೆ ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸಿರುವುದರಿಂದ ಅದರಂತೆ ಮಾಡಿಕೊಡಲಾಗಿದೆ.

Sd/- R. J. Rego.
Asst. Commissioner
Hassan Sub

Date 23.7.37. For Dy. Commissioner Hassan Sub

True copy
8/11/37 Asst. Sheristadar
Dy. Comm. Office

"True copy"

Bailiff Shirastedar
Dy. Commrs office
Harihar

C.R. No 36/37-38

Copy applied on: 5.11.1937.

" received on: 8.11.1937. 8/11/37

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Copied by: H.R. Narasimha Murthy.

Compared by:- G. Kadarappa

In the court of the Deputy Commissioner
Hassan District.

Present: Abdul Aziz Khan Esquire
D.A.
Deputy Commissioner.

R.R. Mis. Case No. 1 of 1937-38

Petitioners:

1. Bhujabalaiya.
2. Puttaswamygowda.
3. H. Ranjundegowda.
4. G.N. Yerrappegowda.
5. Ranjundiah bin Ranjegowda.
6. Yanniappa.
7. Ramaiya bin Yellegowda
8. Chikkere gowda bin Eregowda.
9. KaleGowda bin Kalegowda.
10. Ramaiya bin Govindegowda.
11. Lakkappa alias Kempegowda.
12. Rangegowda bin Ranjegowda.
13. Ramegowda bin Annegowda
14. Appannaiya bin Aniappa.

(Through their Counsel Mr. H.V. Ranga Swamy Advocate.)

V.S.

Counter petitioners.

Sri Jain Mutt, -
Sravana Belagula -
through Counsel
Messrs. Rao
Bahadur N.S.
Ranjundiah and
M.R. Narayana Rao
Pleaders, Hassan.

I Sheet
Ar
23/9/37

This is a revision application under Rule 8 of the Rules under the R.R. Regulation - against the Orders of the S.D.O. Hassan

P.T.O

S.D.O. Channarayapatna passed on 5.6.1937 upsetting the order of the Amildar, Channarayapatna Taluk and directing the restoration of entry made in the preliminary register against Survey Numbers 249, 250, 252, 255, 256, 257, 258, 259, 261, 267, 268, and 269 of Shravana Belagula village and praying that the ownership of the petitioners to their respective lands be restored and directed to be incorporate in the Record of Rights.

Facts of the Case:- Shravana Belagula along with some other villages is endowed as Sarvamanya for the support of 32 Jain Temples. (Side Quit-rent Register). These inam villages are under Government management as per G.O. No. 2034-2924 19.6.1874. As per Khata of the Sarvamanya Shravana Belagula

P.T.O.

Sh. Belagula village. The Survey
under dispute are in the Khata of the S
Jain Mutt at Shravana Belagula and
being managed by the Swamiji of
Mutt as trustee. The Jamabandy of thes
inam villages are being settled year by
year by the Revenue Authorities alon
with the Government villages in the S

As the outcome of an an
petition addressed to the Dewan Statin
that the Swamiji of the Mutt has
squandering the Mutt properties etc
enquiry into the matter was institu
In the course of the enquiry it was -
ascertained that the income
from these lands (Khata) which stoo
in the name of the Sri Mutt, was not
on the sanctioned scale patti of the
but was being exclusively spent by
Swamiji for purposes of feeding
Students of Jain patasala attached to
Mutt, Hetchukatte Sevas etc in the Mutt.
The Swamiji during the enquiry

II sheet
Sd
23/9/37

P.T.O

agreed to hand over the possession of these lands to the Government Management. As a result of the enquiry it was recommended by the Deputy Commissioner in his letter no. C 1791/34-35 dt 4.6.1936 that the income derived by the lands in the Khata of the Mutt may also be included in the Scale patti of the temples and revised. The Mysore Commissioner in his memo. No. C. 1064/34 dt 20.10.36 ordered that the possession of these lands may be assumed by Government and leased out in auction to the best advantage of the institution. &c.

Meanwhile the Record of Rights Scheme having been introduced into the Taluk Certain ryots of Shravana Belagula village, Appanaiya, puttaswamygowda and others claimed that the lands under dispute were in their possession and they may be made out in the Record of Rights registers

registers in their names. The Swamiji protested against the prayer of the ryots both to the Amildar and Mugrai-Commissioner. The petitions addressed to Mugrai Commissioner by both parties were referred with certain instructions to the Deputy Commissioner for disposal and report of the result. The Amildar was directed by the Deputy Commissioner to dispose of the matter and report.

Accordingly the Amildar brought the subject matter under disputed Case register and ordered that as the lands have been acquired by the ryots by means of Civil court decrees, Revenue Sales, Mortgages &c their names may be entered in Columns 14 and 15 of the preliminary register as also in the Final Record Registers, subject to verification in the accounts.

Upon this the Swamiji appealed to the Subdivision Officer Hassan

P.T.O.

S.D.O. Hassan who after hearing the Counsels for both sides and perusing the Connected records ordered as follows:-

The Amildar's order is vague. The nature and extent of the respondents - (petitioners in this case) in each survey number has not gone into. Even the actual extents in their respective enjoyment are not specified. The provision about the verification of accounts and other Concerned ryots - leaves the entire question open. The order is inconclusive besides - being indefinite and therefore set aside.

The Subdivision officer in his order has - further stated that the respondents - wanted that if their names Cannot be entered as owners in Record of Rights - they would be satisfied if registered as Kadim tenants at least. on this the

P.T.O

the Subdivision Officer's finding is that whether they are or are not Kadim Tenants is not the issue in this Case. Such a question must form the subject matter of separate formal enquiry although there is evidence of long possession on the part of the respondents, it is not conclusive proof as to tenure etc and referred them to establish their claims in the proper Court of Law. As per para 3 of rule 7 Record of Rights ~~Regulation~~ Regulation the Subdivision Officer's decision is final.

Upon this order the petitioners through their Counsel have filed a revision application before the Deputy Commissioner on the following grounds:-

1) That the Subdivision Officer has misconceived the scope of the enquiry and disposed of in a summary manner.

2) The Subdivision Officer has passed orders effecting the ~~rights~~ rights of people who are not parties, their disputes regarding Survey numbers 249-261 still being enquired

P.T.

enquired into by the Amildar.

3) Both the Subdivision officer and Amildar have not gone into each individual case separately and all the 12 cases were clubbed together and decided and consequently led to a failure of justice enquiry being partical.

4) The Subdivision officer erred in entertaining the appeal as the village is in Government management and the Swamy has no locus standi.

5) The Subdivision officer erred in law holding that the petitioners have not adduced evidence to establish their title while the presumption is for the other side to establish their title.

6) The application of the provision of law under Land Revenue Code is wrong.

7) The Subdivision officer could have invoked the Sanad for correct appreciation of the case.

8) The Subdivision officer erred in holding that the alienations were made subsequent

P.T.O.

Subsequent to the grant of 1830.

a) The Subdivision Officer ought to have held an enquiry as to the nature of the tenure on the village which was granted 1830 any determination without reference to the grant would be arbitrary and illegal.

b) The Subdivision officer failed to take into account the records that have been produced to establish their title not even to the fact that Government have sold Survey Number 264 to one Chikkegowda decades back.

11) Survey numbers 252, 253, 257, belonging to one Bhujabaliah have been attached by Government agency for evading Criminial trial and the suit has not Claimed these properties these 5 years.

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The Amildar has ordered that the names of the petitioners should be entered in cols 14 and 15 of the preliminary Register. The heading for these columns in the petition Register is 1 other rights and encumbrances such as Casements, Hypothecations, perfetual-

perpetual and Kadim tenancies, &c. -
which do not transfer possession with names
of right holders or encumbrancers.
According to instructions issued by the -
Revenue Commissioner for writing the register
entries in the said column No. 15 will generally
Consist of hypothecation without possession,
other Contingent or vested interests if clearly
established as by decrees of courts or if -
admitted by the parties concerned will also -
be entered here. It has to be examined -
whether the entry of the names of the
petitioners in the said columns is justified
by the evidence produced by them. It is seen
from the documents produced and civil
Court decrees filed, that the Mutt has not -
been a party to any of them. They are
transactions between other parties and
it has been already held that they cannot -
establish a clear right against the -
khatedar Mutt in respect of the lands -
under dispute. The other alternative is -
that both parties concerned should admit -

P.T.O.

— admit the right claimed. The other party, the Mutt, by its trustee the Swamiji has not admitted the right claimed. Besides this inam village is Devadaya and nobody has got any right to alienate the lands therein.

The Subdivision officer in his order has raised the question of "Kadim Tenancy" of the petitioners and thinks there is evidence of long possession of the lands on the part of the petitioners and opines that this should form the subject matter of a separate formal enquiry. With regard to this point Government in their order no. 1726-72 dated 6th June 1859 have among other matters held that none of the raiyots can be regarded as kadim tenants and Government has no right to create new occupancy rights. According to this Government order the raiyots are recognized as ordinary tenants as per Sec. 4(a) of R.A. Regulation their names were not be entered in the Record of Rights. Above all they are not tenants directly under the inamdar to be recognised as kadim tenants.

23/9/77

With

With regard to the grounds of appeal for revision it may be stated categorically as follows:-

1) The enquiry under R.R.is Summary and not Formal. (vide Rule 7.)

2) The Subdivision Officer has powers to pass orders on his own motion at any stage of the enquiry vide Rule 8 of Rules under R.R.Regulation.

3) Answer for no. 2 is applicable to this also.

4) The lands are in the private khata of the Mutt and Swamiji as its trustee has - locus standi.

5) The Land Revenue Sale of S.No 264 which corresponds to old S.No.125 does not effect the Mutt as the land is not now in the khata of the Mutt. It is not known whether this Survey number was in the khathe of the Mutt previously or not.

6) It cannot be presumed that the Mutt is aware of the attachment of the Survey numbers 252-267 by Government Agency. S.No. 253 is not in the khathe of the Mutt

Moreover

Moreover any attachment of the lands would be illegal that being Devadaya.

The other grounds urged are outside the scope of present enquiry. It has to be stated that the inam village being Devadaya no one has got any proprietary rights over the lands except the right to cultivate them.

The Inam Commissioner in his order No. 1064-34 dated 20.10.1936 has ordered the Deputy Commissioner to assume possession of the lands standing in the khata of the mutt and to be surrendered by the Swamiji and lease them out in auction to the best advantage of the institution.

The Deputy Commissioner in his order No. R. R. M.S. Case No. P.C. 4 of 1937-38 dated 3.7.1937 has issued stay orders in respect of the lease sale of the lands under dispute till the 25th July 37.

Order.

P.T.O.

R. R. Misc. No. 1/37-38

Order:-

I have heard the Counsels on both-sides and perused the records. The order passed by the Sub Division officer is quite correct. The Revision petition is dismissed. The Stay order is withdrawn.

(Sd) Abdul Aziz Khan.
Deputy Commissioner.
Hassan District
22.7.37.

Date 22.7.1937.

"True copy"
District Shirastedar 23/9/37
Dy: Comm'rs office.
Hassan District.

CR 23/37

Copy applied on: 14.9.1937.
" Ready on: 23.9.1937. 23/9/37
" delivered on: 23.9.1937.

No. of words: 1800.

Copying and Comparing fees: Rs as ps 2-13-0 only

Copied by: H. R. Narasimhamurthy.

Compared by: [signature]

Thursday
37
June

ಹಿಂದಿನ ಸಂಚಿಕೆಯಲ್ಲಿ ಪ್ರಕಟವಾದ ಕಥೆಯ ಮುಂದುವರಿದ ಭಾಗ

ಹೀಗೆ ಸಾಗುತ್ತಿರುವಾಗ ಒಂದು ದಿನ ಸಂಜೆ ಸುಮಾರು ಆರು ಗಂಟೆಯ ಸಮಯ. ಮಾಮೂಲಿಯಂತೆ ಸಂಜೆಯ ಪ್ರಾರ್ಥನೆಗಾಗಿ ಮಕ್ಕಳೆಲ್ಲರೂ ಸೇರಿದ್ದರು. ಪ್ರಾರ್ಥನೆ ಮುಗಿಯುವ ಸಮಯಕ್ಕೆ ಸರಿಯಾಗಿ ಒಂದು ಕಾರು ಬಂದು ನಿಂತಿತು. ಅದರಿಂದ ಇಳಿದ ಒಬ್ಬ ಸಜ್ಜನರು ಮಕ್ಕಳ ಮಧ್ಯೆ ಕುಳಿತಿದ್ದ ಒಬ್ಬ ಹುಡುಗನನ್ನು ಕರೆದು ಅವನ ಕಿವಿಯಲ್ಲಿ ಏನೋ ಹೇಳಿದರು. ಆ ಹುಡುಗ ಎದ್ದು ಬಂದು ಅವರೊಂದಿಗೆ ಕಾರಿನಲ್ಲಿ ಕುಳಿತು ಹೊರಟು ಹೋದ. ಅವನು ಯಾರು, ಎಲ್ಲಿಗೆ ಹೋದ ಎಂಬ ಯಾವ ಪ್ರಶ್ನೆಗಳಿಗೂ ಉತ್ತರ ಸಿಗಲಿಲ್ಲ. ಅವನ ಹೆಸರು ಸಹ ಯಾರಿಗೂ ತಿಳಿದಿರಲಿಲ್ಲ. ಅವನು ಹೋದ ಮೇಲೆ ಅವನ ಬಗ್ಗೆ ಮಕ್ಕಳಲ್ಲಿ ಕುತೂಹಲ ಮೂಡಿತು. ಅವನ ಬಗ್ಗೆ ಅವರಲ್ಲಿ ಮಾತುಕತೆ ಪ್ರಾರಂಭವಾಯಿತು. ಅವನು ಯಾರಿರಬಹುದು, ಅವನ ಹೆಸರೇನು, ಅವನು ಎಲ್ಲಿಗೆ ಹೋಗಿರಬಹುದು ಎಂಬ ಪ್ರಶ್ನೆಗಳು ಅವರಲ್ಲಿ ಮೂಡಿದವು. ಆದರೆ ಅವರಿಗೆ ಯಾವ ಉತ್ತರವೂ ಸಿಗಲಿಲ್ಲ. ಅವನು ಹೋದ ಮೇಲೆ ಅವನ ಬಗ್ಗೆ ಮಕ್ಕಳಲ್ಲಿ ಕುತೂಹಲ ಮೂಡಿತು. ಅವನ ಬಗ್ಗೆ ಅವರಲ್ಲಿ ಮಾತುಕತೆ ಪ್ರಾರಂಭವಾಯಿತು. ಅವನು ಯಾರಿರಬಹುದು, ಅವನ ಹೆಸರೇನು, ಅವನು ಎಲ್ಲಿಗೆ ಹೋಗಿರಬಹುದು ಎಂಬ ಪ್ರಶ್ನೆಗಳು ಅವರಲ್ಲಿ ಮೂಡಿದವು. ಆದರೆ ಅವರಿಗೆ ಯಾವ ಉತ್ತರವೂ ಸಿಗಲಿಲ್ಲ.

ಹೀಗೆ ಸಾಗುತ್ತಿರುವಾಗ ಒಂದು ದಿನ ಸಂಜೆ ಸುಮಾರು ಆರು ಗಂಟೆಯ ಸಮಯ. ಮಾಮೂಲಿಯಂತೆ ಸಂಜೆಯ ಪ್ರಾರ್ಥನೆಗಾಗಿ ಮಕ್ಕಳೆಲ್ಲರೂ ಸೇರಿದ್ದರು. ಪ್ರಾರ್ಥನೆ ಮುಗಿಯುವ ಸಮಯಕ್ಕೆ ಸರಿಯಾಗಿ ಒಂದು ಕಾರು ಬಂದು ನಿಂತಿತು. ಅದರಿಂದ ಇಳಿದ ಒಬ್ಬ ಸಜ್ಜನರು ಮಕ್ಕಳ ಮಧ್ಯೆ ಕುಳಿತಿದ್ದ ಒಬ್ಬ ಹುಡುಗನನ್ನು ಕರೆದು ಅವನ ಕಿವಿಯಲ್ಲಿ ಏನೋ ಹೇಳಿದರು. ಆ ಹುಡುಗ ಎದ್ದು ಬಂದು ಅವರೊಂದಿಗೆ ಕಾರಿನಲ್ಲಿ ಕುಳಿತು ಹೊರಟು ಹೋದ. ಅವನು ಯಾರು, ಎಲ್ಲಿಗೆ ಹೋದ ಎಂಬ ಯಾವ ಪ್ರಶ್ನೆಗಳಿಗೂ ಉತ್ತರ ಸಿಗಲಿಲ್ಲ. ಅವನ ಹೆಸರು ಸಹ ಯಾರಿಗೂ ತಿಳಿದಿರಲಿಲ್ಲ. ಅವನು ಹೋದ ಮೇಲೆ ಅವನ ಬಗ್ಗೆ ಮಕ್ಕಳಲ್ಲಿ ಕುತೂಹಲ ಮೂಡಿತು. ಅವನ ಬಗ್ಗೆ ಅವರಲ್ಲಿ ಮಾತುಕತೆ ಪ್ರಾರಂಭವಾಯಿತು. ಅವನು ಯಾರಿರಬಹುದು, ಅವನ ಹೆಸರೇನು, ಅವನು ಎಲ್ಲಿಗೆ ಹೋಗಿರಬಹುದು ಎಂಬ ಪ್ರಶ್ನೆಗಳು ಅವರಲ್ಲಿ ಮೂಡಿದವು. ಆದರೆ ಅವರಿಗೆ ಯಾವ ಉತ್ತರವೂ ಸಿಗಲಿಲ್ಲ.

[illegible] (Sd) [illegible]

[illegible]

[illegible] R.R. [illegible] R R [illegible]

[illegible] 9 [illegible] 10 [illegible]

[illegible] P.C 14.5 [illegible]

[illegible]

C. 27]

ಮೈಸೂರು ಸೀಮೆಯ ಮುಜರಾಯಿ ಕಮೀಷನರವರ

ಆಫೀಸಿನಿಂದ.

ನಂ. C 1064 / 34-35 ಬೆಂಗಳೂರು ತಾ॥ 11-8-37

ಜಿಲ್ಲೆ ಡಿಸ್ಟ್ರಿಕ್ಟು

ತಾಲ್ಲೂಕು

ಗ್ರಾಮದಲ್ಲಿರುವ

ಗೆ ಇಂಡಾರ್ಸು

ಇರೇಬಿನೆಲ್ಲಿ ನಮೂದಿಸಿರುವ ಅರ್ಜಿಯನ್ನು ಮತ್ತು ಈ ವಿಷಯದಲ್ಲಿ ರಿಂದ

ಬರಮಾಡಿಕೊಂಡ ರಿಕಾರ್ಡು ಪರಾಂಬರಿಸಲಾಯಿತು.

WD 01616—GPB —250—22-5-34

ಪಿನ್ನರ್ ನಂ.

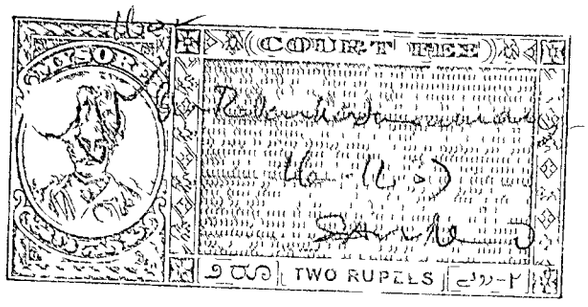
ದಾರೀಜು 28/7/37

ವಿಷಯ:—

P. T. O

27-11-36 తేదీనాటి నం - 1064/34-35 గల ఉత్తరాలు ఇందుతోపాటు కడపటి ఆదేశాలకోసం పంపబడినవి. ఆదేశాలు వచ్చిన వెంటనే తగిన చర్య తీసుకోబడుతుంది. ఈ విషయంలో ఇంకా ఏమైనా సలహాలు ఇవ్వదలచుకొన్నట్లయితే, దయచేసి వెంటనే తెలియజేయవలసిందిగా కోరుచున్నాము.

M. N Srinivasan.
For Chairman Commissioners.



Mog 151-37-2

BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

OF MYSORE IN BANGALORE.

R. A. of 37-38.

Appellants:--

B. P. Bhujabaliah & others.

Vs.

Respondent:--

Sri Swamigalu of Sravanabelagola Mutt,

Chanmarayapatna Taluk,

Hassan District.

The appellants have this day preferred an appeal from the order of the Muzrai Commissioner in regard to the lease auction of 14 survey numbers about 44 acres and odd in extent.

2. The order was passed exparte by the Muzrai-Commissioner as well as the Deputy Commissioner. In spite of express requests for inquiry by the appellants and notwithstanding the mandatory requirements of law, for a formal enquiry being held there has been no enquiry at all by the Muzrai Officer. This has led to failure of justice.

3. The appellants admittedly have been in possession of these survey members, and neither the Respondent nor Government on its behalf has ever exercised rights of ownership so far as nown recons indicate. Only the Kandayam is being collected

27-11-36 ಶಿಸ್ತು - 1064/34-35 ನೇ ಸಂಖ್ಯೆ ಇಂತಿಂತಿದ್ದು ಕಡಿಯಬೇಕು ಕೊಂಬು ಮುದರ ಕಳಿಯುಬಿಟ್ಟು; ಆದರೆ ಮೇಲಿಂದಲ್ಲಿ ಕಾಳ್ಳ ಅಮಿಂಲರ ಕಛೇರಿ

collected by the appellants and predecessors in title with respect to the lands in question. There are over whelming materials in support of the khadim or permanent tenancy claimed by the appellants with respect to these lands such as series of kandayam receipts registered documents of conveyance etc.

4. The procedure adopted for depriving the appellants of the lands is also irregular and contrary to law as no notice as required by law is served upon them and time given to comply with the requirement.

5. In fact the appellants are shut out from proving their claim and on threts of serious penalties the local authorities are trying to -- dispossess the appellants.

6. There are valuable standing crops on these lands almost ripe for cutting. If appellants are, without any enquiry and without regard to statutory requirements, are allowed to be turned out of the lands as if they are tresspassers, it will be a negation of all justice and result in inordinate haldship and irreparable loss.

7. The appellants have prima-facie grounds for seeking and expecting reversal of the order now passed, which on a mere perusal will show that proper consideration is not bestowed on the nature and magnitude of the interests involved.

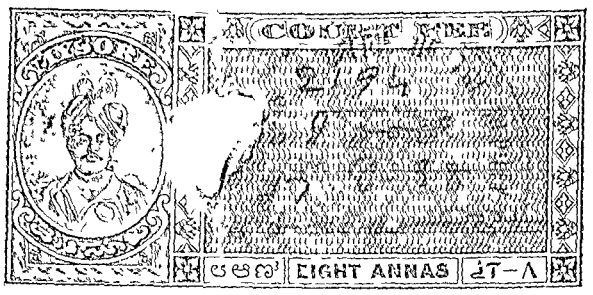
8. It is therefore prayed that pending disposal of the appeal, orders be kindly issued for stay of all further proceedings in pursuance of the order of the Muzrai Commissioner, the Appellants are

are prepared if need be to furnish security or
else by any terms which may be deemed necessary
or fit to be imposed on the said stay of execution
of the order under appeal.

Bangalore,
Dated 16-11-1937.

R. Venkatarama Iyer
APPELLANTS.

ಮುಂಸಿಫ್ ಮುಖಾಂತರ
ರಂಗಸ್ವಾಮಿ ಅಯ್ಯಂಗಾರ್
ಬೆಂಗಳೂರು

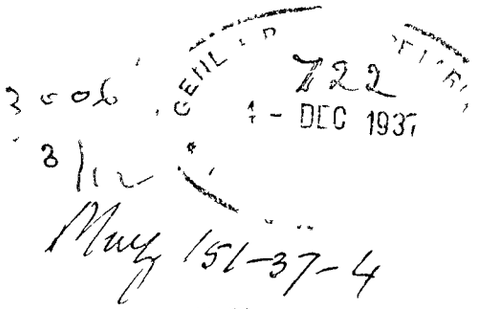


Application dated 17-8-1938 by one Rangegowda of Nagayyanakappal, Shravanabelagola Hakhale, Channarayapatna Taluk, praying for the grant of Copy of order passed in this office Memo No. R Dis. 660/25 dated 28-4-1934 regarding Some litigation between Mutt and the rayats in connection with ~~Some~~ the Mutt as certain lands standing in the name of Sri Gomateshwara Swami at Shravanabelagola

R. Dis. C 660-25

శివమొగ్గ:

శ్రవణబెళగుళ్ళదల్లి రువ శ్రీమదేవాల యక్కళమఠ మఠద శ్రవణబెళగుళ్ళ, ఉళిదవరుగళు, రంగాపుర మఠద స్వామిగళ యజమానికెయల్లి నడెదు బందిరువ యినాం మంబూర్వ దిరుశక్తి ఇనదే యిద్దాగ మఠక్కళ్ళల్లి రువ ప్రతిష్ఠేయుం కవిగళు రంబరు కళ్ళనుళ్ళ దేవపాదాయ యినాంతి యెందు మంబూరు మూదిరు వ్యక్తిగళు



His Holiness
rthi Pandithacharyavarya Swamiji.

JAIN MUTT,
Shravanabelgola,
(MYSORE STATE)

29-11 — 1937

॥ ಶ್ರೀರಸ್ತು ॥

ಸ್ವಸ್ತಿಶ್ರೀಮದ್ರಾಯರಾಜಗುರು ಭೂಮಂಡಲಾಚಾರ್ಯವರ್ಯ ಮಹಾವಾದವಾದೀಶ್ವರ ರಾಯವಾದಿ
ಪಿತಾಮಹ ಸಕಲ ವಿದ್ವಜ್ಜನ ಸಾರ್ವಭೌಮಾದ್ಯನೇಕ ಬಿರುದಾವಳೀ ವಿರಾಜಮಾನ ಶ್ರೀಮನ್ನಿಜಘಟಿಕ
ಸ್ಥಾನ ದಿಳ್ಳಿ ಕನಕಾದ್ರಿ ಶ್ವೇತಪುರ ಸುಧಾಪುರ ಸಂಗೀತಪುರ ಕ್ಷೇಮನೇಣುಪುರ ಶ್ರೀಮದ್ಪೆಳುಗುಳ ಸಿದ್ಧ
ಸಿಂಹಾಸನಾಧೀಶ್ವರ ಶ್ರೀಮದಭಿನವ ಚಾರುಕೀರ್ತಿ ಪಂಡಿತಾಚಾರ್ಯವರ್ಯ
ಸ್ವಾಮಿಯವರು.

ಘನಮಹಿಂದಿದಮ್ಮಿಸೂರು ಸೀಮೆಯ ಒಂದನೆ ಕಾನ್ಸಿಲರ್ ಷಾಹೀ ಬರಫರಜನಾಭಿಗೆ

ಬರಸಿದ ಪತ್ರ

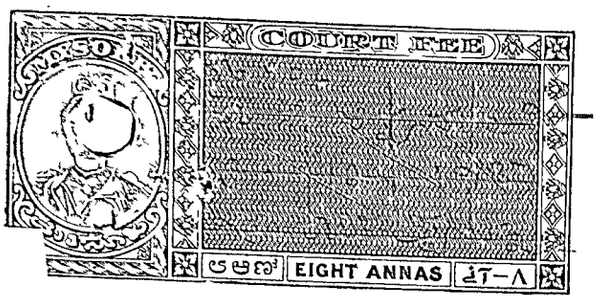
ಶ್ರೀಮಠದ ಖಾತೆಯ ಜಮೀನುಗಳನ್ನು ಘನಸರ್ಕಾರದವರು ಪುನರ್ವಿಚಾರಿಸಿಕೊಂಡು
ಪಂಚಾಲ್ ಗುತ್ತಾ ಷಾಹೀ ಸರ್ಕಾರದವರು ಪುನರ್ವಿಚಾರಮಾಡಿ ಆಬಗ್ಗೆ ಬಹುವ
ತ್ತಿಯನ್ನು ನಮ್ಮ ಅಭಿಪ್ರಾಯದಂತೆ ಸ್ಥಿರಮಾಡಿ ನಾವು ನಡೆಸುತ್ತಿರುವ ಧರ್ಮಕಾರ್ಯಕ್ಕೆ ಪೂ
ರ್ಣವಾಗಿ ಬೆಂಬಲಕೊಡಬೇಕೆಂದು ಆದಮುಜರಾಯಿ ಕಮಿಷನರ್ ಷಾಹೀ ಬರವರ ಆರ್ಡರ್‌ನಂತೆ
ಷಾಹಿಯವರು ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಡೈಮಟಿ ಕಮಿಷನರ್ ಷಾಹೀ ಬರವರು ಕಾಲೇಜು ಅಮಲ್ದಾರ್ ಪ್ರಿಪರ
ಮೂಲಕ ಶ್ರೀಮಠದ ಖಾತೆಯಲ್ಲಿದ್ದ ಎಲ್ಲಾ ಜಮೀನುಗಳನ್ನು 1937—38 ನೇ ಸಾಲಿನಿಂದ
ಮುಂದು ಐದು ವರ್ಷಗಳವರೆಗೆ ಇಜಾರಾಜಿಗೆ ಇಡಿಸಿದರಮೇಲೆ ಜಮೀನುಗಳು ಐದು ವರ್ಷ
ಕ್ಕೆ ಇಜಾರಾಜಿ ಕ್ರಮವಾಗಿ ಬಿಡ್‌ಬಂದು ಇಜಾರು ಮುಂಜೂರು ಮಾಡಿ ಗುತ್ತಾದಾರುಗಳಿಂ
ದ ಕ್ರಮವಾಗಿ ಸ್ಟಾಂಪ್ ಪೇಪರಿನಿಂದ ರಿಜಿಸ್ಟರ್ ಗುತ್ತಾಕರಾರ್ ಬರಿಸಿಕೊಂಡು ಜಮೀನು
ಗಳನ್ನು ಗುತ್ತಾದಾರುಗಳಿಗೆ ಪುನರ್ವಿಚಾರಿಸಿದರಮೇಲೆ ಬಿಡ್ ಮಾಡಿದ ಗುತ್ತಾದಾ-
ರಕ್ಕೆ ಕಮ್ಮಿಕಮ್ಮಿ ಜಮೀನುಗಳನ್ನು ಚಾಲ್ತಿ ಸಾಲಿನಲ್ಲಿ ಷಾಹೀ ಮಾಡಿಕೊಂಡು ಪುನ
ರ್ವಿಚಾರ ಮಾಡುವವರೆಗೆ ಈ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ದಾಖಲೆ ನಾಶ್ಯಯ್ಯನವರು
ಮದಬುಜಬಲಯ್ಯ ಮತ್ತು ರಂಗೇಗೌಡ ಇವರು ಮದಕ್ಕೆ ಬಂದು ಅವರೇ
ಗುಂಪು ಕಟ್ಟಿಕೊಂಡು ಬಂದು ಗುತ್ತಾದಾರರು ರಾಮೇಗೌಡ ವನೆ.ರಿಯವ
ರಿಗೆ ಪುಸುಲು ಕಲಲ್ ಮಾಡುವುದರಲ್ಲಿ ಕೃತ್ಯವು ಮತ್ತು ಶ್ರೀಮಠದ ಖಾತೆ
ಜಮೀನುಗಳು ಷಾಹೀ ಮಾಡದಂತೆ ಬಂಜರ್ ಬೀಳುವ ಶ್ರೀಮಠಕ್ಕೆ ಹಾನಿ ಬ

ಲುಕ್ಷಾನುಲುಂಟುಮಡಬೇಕೆಂಬ ದುರುದ್ದೇಶವುಳ್ಳವರಾಗಿ ತಾ. 16-11-3ನೇ
ಬಗಲಾಚೆನಡೆಸಿ ನೆಮ್ಮದಿಗೆ ಭಂಗವುಂಟುಮಾಡಿ ಕೆಲವರಿಗೆ ಮೊಜ್ಜಿಗಳಿಂದೂ
ಗಾಯಗಳನ್ನುಂಟುಮಾಡಿರುತ್ತಾರೆ

ಈವಿಚಾರವನ್ನು ತಮ್ಮಲ್ಲಿ ನಭಿಕ್ತಿಕೆ ತರಲು ಬಹಳವ್ಯಪನಪ
ಅಲ್ಲದೆ ಈಸ್ಥಲಭೆಯನ್ನು ಬಹಳಸಾಡಿಸಿಪಟ್ಟುಸ್ಥಳದ ಮೋಲೀಸು ಆಫೀಸ
ಳು ಚದುರಿಸಿ ಬಿಡುದಾರುಗಳಿಗೆಸಲುಶೀಖೆನೆಶುಮಕೊಮಾಡಿದರಮೇಲೆ ಪ್ರಾ
ಲಸ್ಟು ಬಿಡುದಾರು ಪಡಕೊಂಡಿರುತ್ತಾರೆ ಅಲ್ಲದೆ ದೊಂಬನಡೆಸಿದವರಮೇಲೆ ಪೀ
ಲೀಸು ಆಫೀಸರು ರೈಟಂಗೆಶೀಪ್ ಮಾಡಿರುವುದಾಗಿ ವರ್ತಮಾನಕೇಳ್ಪಟ್ಟೆ

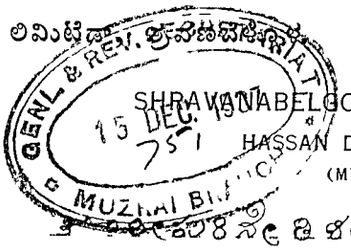
ಪ್ರ॥ ಮುಜರಾಯಿತಮತವರ್ಷಾಡೀಬರವರಕೋರ್ಟಿನಲ್ಲಿ
ಬಲಯ್ಯವನ್ಮಲೈಯವರು ಡಸವದ ಡಿಸ್ಟ್ರಿಕ್ಟು ಡೈಮುಖೀತಮಿತುನರ್ಷಾಡೀಬರ
ವರು ಹೂಜು ನಡೆಸಿ ಮುಂಜೂರುಮಾಡಿರುವುದನ್ನು ರದ್ದುಪಡಿಸಬೇಕೆಂದು
ವನ್ಮಲೈರಿಚುರಿತು ಕೊಟ್ಟು ಅಪೀಲರ್ಜಿಯು ಪಜಾ ಆಯಿತೆಂಕಲಾಮನಃ
ಪ್ರಸಕರ್ಾರದಲ್ಲಿ ಅಪೀಲ್ ಮಾಡಿ ಸ್ಟೇ ಆರ್ಡರ್ ಪಡಕೊಂಡುಬರುತ್ತೇವೆಂಕ
ಲುಪಹಮ್ಮೆನ್ಮಲೈರಿ ವಿಚಾರಚುರಿತು ಗುತ್ತಿದಾರರುಗಳಿಗೆ ಬರುಳ್ಳಭಯವನ್ನುಂಟು
ಮಾಡುತ್ತಾ ಇರುತ್ತಾರೆಂದು ಗುತ್ತಿದಾರರುಗಳಿಂದ ಶಿಲ್ಲಿಯು ಬಂದಿರುತ್ತೆಯಾದ್ದ
ರಿಂದ ಶ್ರೀಮರದಮೇಲೆ ಪೂರ್ಣ ಅಭಿಮಾನವಿಟ್ಟು ಮೇಲ್ಕಂಡಬುಜಬಲಯ್ಯ
ರಂವೀಪಾಡಿಯವರಿಗೆ ಸ್ಟೇ ಆರ್ಡರ್ ವನ್ಮಲೈರಿಗಳಿಗೆ ಅವಶ್ಯವಿಲ್ಲದಂತೆ ಪಪ್ಪ
ಡು ಇಡಿಸಬೇಕಾಗಿ ಅಪೇಕ್ಷಿಸುತ್ತೇವೆ. ಯಂಗಿ ಶೃಪ ——————

ವಧೇನಾ ನಿಲಿಕಾಗಿ ಸಂಘ
ಕಾರ್ಯದರ್ಶಿಗಳು



lustries & Copper Works Co., Ltd.

ಶ್ರೀ ಕೆಲಸದ ಕಂಪೆನಿ, ಲಿಮಿಟೆಡ್, ಶ್ರವಣಬೆಳ್ಗೊಳ



ದಿನಾಂಕ ೧೫ ಡಿಸೆಂಬರಿ ೧೯೮೭

3037
-14/12

ಪೂಜ್ಯರಾದ ಶ್ರೀಮಾನ್ ಕರ್ಮಯೋಗಿ ಬಂಡಾರಿ ಡಿಂಬುರಿರವರ
ಸನ್ನಿಧಾನಕ್ಕೆ —

ಶ್ರವಣಬೆಳ್ಗೊಳದ ಶ್ರವಣಬೆಳ್ಗೊಳ ಕಿಕ್ಕೇರಿ ಮಕ್ಕು ಕಂಪ್ಲಿ ಕಿಲಸದ ಕಂಪೆನಿ ಅಂದರೆ

ಕಾಯಿದೆ — ದಿನಾಂಕ ತಿಪ್ಪಿಕ್ಕು ಆಗ್ಗೆ ಎಂಬ ಪಲ್ಲಕ್ಕಿಯಲ್ಲಿ ಶ್ರವಣಬೆಳ್ಗೊಳದಲ್ಲಿ

ಸಾಗಲ್ಪುವ ಪೀಲ್ಲುಗಳ ಮಹಿಳೆ ಕಿಲಸ ಸವೇ ನಂಬರುಗಳು ೨೬೭ ಎಂಬ ಸಲುವಾಗಿ

ಬಂದು ಬಂದ ಮಂಡುಕ್ಕಿಗೆ ಕುಳಿತಿರುವ ವಿಷಯ ಈ ಕಂಪೆನಿಗೆ ಕೆಂಪು ಬಣ್ಣದ ಬಟ್ಟೆಗಳ ವಿಷಯ

ಗಳ ಸಾಗಲ ನಡೆದಿಕ್ಕಿರುವ ಸಿವಿಲ್ ನಂಬರುಗಳಿಂದ ಗರವಣಿಗೆಯಾಗಿ ಕಡಿತ ತಂಬಿಲ್ಲವೆಂದು

ಅಭಿಪ್ರಾಯಗಳು ಮಂಡಿಸಿದಂತೆ ಅಮಲ್ದಾರರವರು ನಮ್ಮ ಅರ್ಜಿಯಲ್ಲಿ ಕೇಳಿ ಕೊಂಡಿರುವ

ಅಧಿಕಾರವಿಲ್ಲ ಪ್ರಾಥಮಿಕ ವಿಚಾರಣೆಯನ್ನು ಮಾತ್ರ ಮಾಡಿ ಅಭಿಪ್ರಾಯ ಕೊಡಲು ಅಧಿಕಾರವಿರುವುದಾಗಿ

ತಿಳಿಸಿದರು ಕರುಣೆಯಿಟ್ಟು ಯಾವ ಬಂದರ್ಜಿಯನ್ನು ಕೊಡಲಾಗಿದೆ ಎಂಬುದನ್ನು

ತಿಳಿಸಲು ಕೋರಿದ್ದೇವೆ. ಈ ಸವೇ ನಂಬರುಗಳು ನಾಲ್ಕೆ ಬುಲ್ಲ ಮಲ್ಲಿಗೆಯೂ ಎರಡು ಮೂರು ತಿಂಗಳ

ಗಳಿಂದ ಕಂಪೆನಿಯವರು ಕಂಪೆನಿಯಿಂದ ಬುರಕತಿ ಕೂಡಿಕೆ ಆದೇಶಗಳು ವಿಷಯ

ನಾಲ್ಕೆ ಚಿತ್ರಗಳಿಗೆ ಬುಲ್ಲವರೆಂದೂ ಅಗ್ರಿಮೆಂಟಿನಲ್ಲಿ ನಂಬರುಗಳನ್ನು ಯಾವುದೇ ನಂಬರುಗಳ

ಮರಹದವರಿಂದ ತಂದಿಕ್ಕಿಲ್ಲವೆಂದೂ ಅಗ್ರಿಮೆಂಟಿನಲ್ಲಿ ಬರೆದಿಕ್ಕಿಲ್ಲವೆಂದೂ

ಮರಹದವರಿಗೆ ತಂದಿಯದ ಮೇಲುಗಳ ಅಧಿಕಾರವಿಲ್ಲವೆಂದು ಬಲಿಷ್ಠಗಳ ವಿಷಯ

ಅಧಿಕಾರವಿದೆಯೆಂದು ತಿಳಿದಿದ್ದಲ್ಲಿ ಖಚುವರಿಗೆ ನಾವು ಬಲಿಷ್ಠಗಳ ಮೇಲೆ ಬಲ

ಅಗಲ ಕೂಡಾವೆಂದು ಪ್ರಥಮದಲ್ಲಿ ಕ್ರಯದ ವಿಕ್ರಯಿಂದಿಗಳು ನಡೆಯಲು ಅವಕಾಶ

ಆಗುವಂತೆ ಅಂತಕರಂತ ಈ ಬಲಿಷ್ಠಗಳನ್ನು ನಮ್ಮ ಕಂಪೆನಿಗೆ ಅಂತಿಮವಾಗಿ ಕೊಡಿಸಲು

ದಿನಾಂಕ ತಿಪ್ಪಿಕ್ಕು ಗೆಜೆಟ್ ಪ್ರಕಟಣೆ ಮಂಜೂರಾತಿ ಆದೇಶವನ್ನು ಕಾಯಿದೆಯ

No HC 35/37-38 Mys 15(-37-7

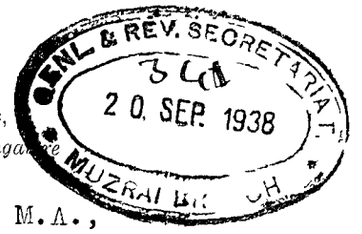
Rec 3 fols of records

OFFICE OF THE MUZRAI COMMISSIONER IN MYSORE,

Bangalore, 16th September ... 193 8

FROM

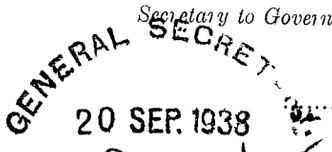
K. V. ANANTARAMAN, ESQ., B.A.,
Muzrai Commissioner in Mysore,
Bangalore



To

M. Venkatesa Iyengar, Esq., M.A.,

Secretary to Government of His Highness
the Maharaja of Mysore,



...General ... ...*Department,*

SIR,

Appeal Petition of Bhujabaliah and others re. the lands in the khate of the Jain Mutt at Sravanabelagola, Chennarayapatna Taluk.

In continuation of this office letter No.H.C.35/37-38 dated 15-6-1938, re. the above, I have the honor to forward herewith the entire file of records received with the Hassan District Deputy Commissioner's letter No.C.1792/37 dated 29th August 1938 together with this office files Nos.App.15/37-38 and App.15/33-34, and to state that the facts of the case are fully discussed in the Deputy Commissioner's letters dated th January 1937 and 25th ~~January~~ September 1937, and this office Note

in App.35/37-38.

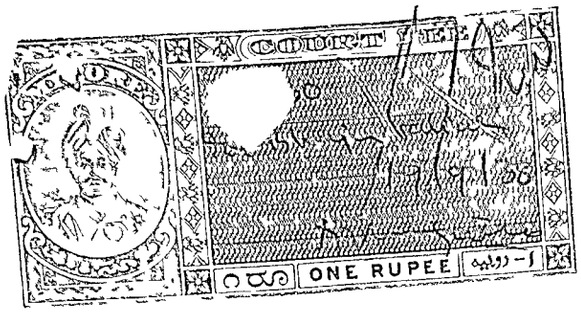
I have the honor to be,

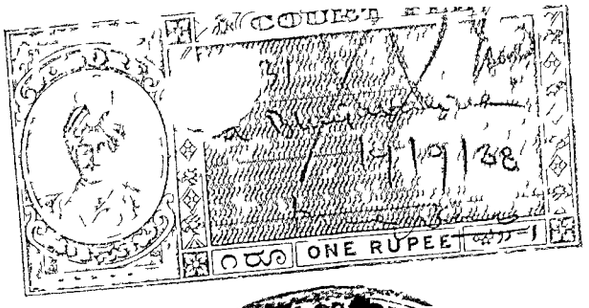
Sir,

Your most obedient servant,

M. N Bhandalkar

Assistant Commissioner
For Muzrai Commissioner.
(Absent from headquarters)





May 1937.

[illegible] Bangalore.

Muz. Appeal No. [illegible] 1937-38.

Appellant :-- [illegible]

Vs:

Respondents:-- [illegible]
[illegible]
Channarayapatna [illegible].

The appellants above-named beg to submit as follows:

1. On 18-11-1937 the appellants preferred appeals to the Muzrai Commissioner against the order of the Srimutt at Sravanabelgola, [illegible] alleged to be of the Srimutt at Sravana-belgola.

2. The appellants' claim to these lands as theirs are set forth in the appellate petition. In particular, attention is invited to the fact that these lands have been in the possession of the appellants and their ancestors for a very long time and that the appellants' rights to the same have been recognised by the Mutt authorities as well as the Government as solicited. The lands are also

also approve [illegible] by the appellants
[illegible] reference [illegible] -
of [illegible] under the [illegible]
[illegible] later [illegible] by [illegible]
support [illegible] appellants' claim.

5. [illegible] these [illegible] without
consideration [illegible] appellants' rights for
the courts, the Attorney General, Commissioner
[illegible] these [illegible] [illegible] appellants to
[illegible]. [illegible] the learned [illegible] of Assistant
Registrar [illegible] appellants' application [illegible]
without hearing them.

4. [illegible] these proceedings
have been [illegible] the prejudice of the appellants
and [illegible] to well established practice
and [illegible] rule of law.

5. [illegible] with a view to terminate the appellants' [illegible] the [illegible] of the Grindlays Bank [illegible] exparte [illegible] adjudication
[illegible] [illegible] course [illegible], criminal
proceedings have been set up against the
appellants [illegible] which the appellant's re
[illegible] [illegible] their [illegible] as a
consequence of these there have been threats
of punishment by the police and forcible
removal if appellants should exercise their
legal rights of ownership and possession
[illegible] [illegible] question.

6. The appellants [illegible] strictly
[illegible] [illegible] [illegible] on these lands for

for ~~xxx~~ their sustenance. As a result of the attitude of the forest authorities and the methods of the project, the appellants are unable to have peaceful enjoyment of the lands.

7. Since filing the appeal, the appellants have been able to obtain a certified copy of an order passed by the Deputy Commissioner, Hassan District, dated 28-4-1934 in R. Dis. C. 660-25 holding that with respect to ~~xxxx~~ some of these very lands the persons in possession are not ~~likely~~ liable to be ejected at all. A true copy of it is herewith produced. Several ancient documents in support of appellants' claim will be produced whenever required.

8. Unless appellants are granted a stay order restraining others from disturbing appellants' possession of the lands in question, they will be rendered destitute as they will be virtually deprived of their means of living.

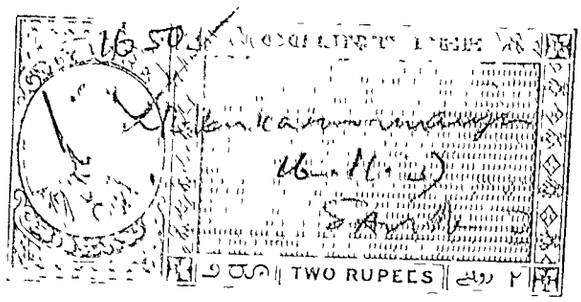
9. The appellants hereby pray that till disposal of the appeal orders may be kindly issued accordingly.

10. The appellants are prepared to abide by any terms that are imposed upon them for grant of the Stay order.

Bangalore,
Date. 19-9-1938.

ಜಿ. ಸಿ. ಬಂಧುಗಳು ಮತ್ತು ಇತರರು

Appellants.



In the Court of the

Before the Government of H.H. the Maharajah of Mysore, Bangalore

Misc. Case No. of 1937) 1938.

Appellant ~~Plaintiff~~		*Respondent* ~~Defendant~~
B.P. Bhimjabhai Jamnes	**Vs.**	Sri Ramigala of Chandragola Mill & Chamaraja Pattana Taluk

1. I the Appellant above named do, by these presents, retain N. Venkata Ramaiya Advocate, to appear and conduct the above case on my behalf to judgement.

2. I further empower him to do all necessary acts in the above case, to execute any decree or order that may be passed in my behalf and to receive from the Court all documents, refunds and all sums of money that may be entitled to get and grant receipts therefor,

3. I also undertake to confirm and ratify all the acts done by the said Advocate or by any other Advocate on his behalf in so doing.

.....193

BANGALORE.

Personally known to me and signed in my presence—ACCEPTED.

K.P. Dhanappa
Vice President
8/10/37

Advocate.

Advocate for.....

Sold by B. Narasimha Iyengar, Proprietor Vidyasagar Book Depot Chickpet Bangalore City

ಲಕ್ಷ್ಮಿ ನಾರಾಯಣ ರಾಜು

Accepted
K. Venkata Ramaiah
Process Server

Appendix F G—1]

SUBJECT .....

.....

.....

Section

File No. 151/37

Serial No.

Diary No. of letter replied to .....

No. 688

To

General and Revenue Secretariat

( )

the 193 .

Date of issue 5-11-38

Signed by

List of enclosures.....

Copied by .....

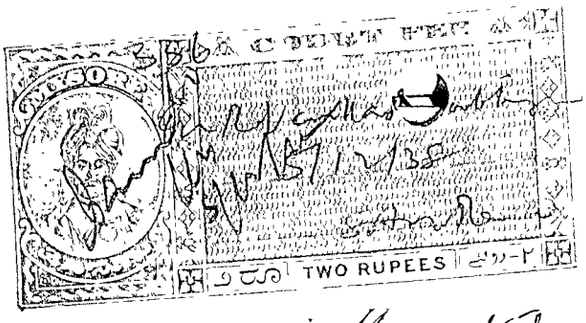
Examined by.....

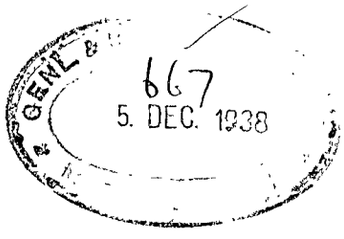
WD 0278—GPB—30,000—4-3-38

their request for a stay order pending the disposal of the appeal filed by them is granted.

B.O

Dr.





Before the Government of His Highness the
Maharaja of Mysore, Bangalore.

Muzrai Appeal No.12 of 1937-38.

Appellant — B. C. Bhujabaliah and others.

-Vs-

Respondent. — The Swamy of Sri Jain Mutt, Sravanabelagola

The respondent abovenamed begs to state as follows:-

1. That a notice has been served on the Parupathegar of the above Mutt stating that the above case is posted to 14th December 1938 for hearing.

2. That the Swamy who is the respondent in the case is now camping at Arrha in Bihar

P.T.O.

Bihar Presidency in connection with the consecration of the Jain Temple and is not likely to return for at least a month more.

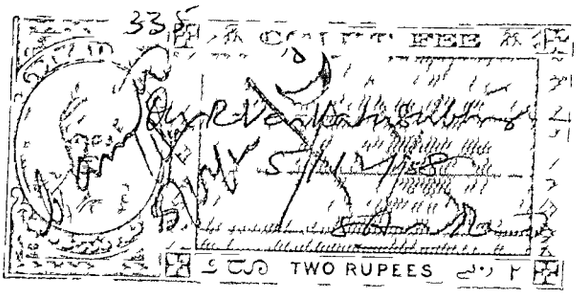
3. That in his absence it is not possible for the Parupathigar to instruct the Counsel properly. All the records connected with the case are in the custody of the Swamy. The Parupathegar does not hold any power of attorney from the Swamy for the conduct of the appeal. As a matter of fact the case has been conducted by the Swamy himself throughout.

4. The Parapathegar, therefore, prays that the Government may be pleased to adjourn the case to any day after January 1939.

Bangalore,
5-12-1938.

I, G.S.Nemchandriah do solemnly affirm that what is stated above is true.

Bangalore,
5-12-38.



Before the Court ಕೋರ್ಟಿಗೆ.

1937 –193 ನೇ ಸಾಲಿನ ನಂ.....12

ವಾದಿ ಯಾ ಅರ್ಜಿದಾರ್,

ಪ್ರತಿವಾದಿ ಯಾ ಅಪೋನೆಂಟ್

– } Vs. { –

ಮಾ|| ರಾ|| ಫೈಡರ್ ಜಿ. ಶ್ರೀನಿವಾಸಯ್ಯನವರಿಗೆ

ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮಾ.

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನಪರವಾಗಿ ಆಫೈರುವರಿಗೂ ಕೋರ್ಟನಲ್ಲಿ ವಿವಾದ ಜರಿಗಿಸುವ ದಕ್ಕೂ, ನನ್ನ ಪರ ಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಆರ್ಡರನ್ನೂ ಡಿಕ್ರಿಯನ್ನೂ ಜಾರಿಕ್ರಮ ನಡಿಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ನನಗೆ ಕೋರ್ಟಿನಿಂದ ಸಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿ ಮೊಬಲಗು, ಶಿಲ್ಕು ಮೊಬಲಗು ಸಹ ಪಡೆಯಲಿಕ್ಕೂ, ದಸ್ತೈವಜು ವಗೈರೆಗಳನ್ನು ವಾಪಸು ಪಡೆಯಲಿಕ್ಕೂ ಸಹ ತಮಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿದೇನೆ. ಅಲ್ಲದೆ ತಾವಾಗಲಿ ಯಾ ತಮಗೋಸ್ಕರ ಮತ್ತಾವ ಲಾಯರಾಗಲಿ ಡಿಟೋ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನೂ ನಾನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇದೇನೆ

ಬೆಂಗಳೂರು

ತಾ||..4/12/1937.

ರುಜು

ಈ ಮೊಕ್ತಾರುನಾಮ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯ ಸ್ವರಾಗಿ ಸಮಕ್ಷಮ ರುಜು ಮಾಡಿರುತ್ತಾರೆ.

ನೆ. ಸಿ. ಸುಬ್ಬಯ್ಯ ಅಂಡ್ ಸನ್ಸ್, ಪ್ರಿಂಟರ್ಸ್, ಬೆಂಗಳೂರು ಸಿಟಿ.

ಈ ಮೊಕ್ತಾರುನಾಮೆ ಅಂಗೀಕರಿಸಿ ಇದೇನೆ

5/12/37

D. Ac. 35
37-38

Mr. S. Abdul Wajid, B.A.,
~~Mr. K. V. Anantaraman, B.A.~~
Muzrai Commissioner.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

Bangalore,.....& .... 7th Feb. ... 1939

Dear Sir,

With reference to the Phone message requesting that the file leading to this office order No. C 1064/34-35 dated 20-10-1936 regarding the lease of lands standing in the khate of the Sri Jain Matha and temples at Sravana-belagola, I am desired to forward herewith this office collection R.Dis. 183/37-38, containing the order required above.

Yours sincerely
M. N. Ananthan.

S.K. Venkataramana Iyer, Esq., B.A.,B.L.,
Assistant Secretary to Government of Mysore
Bangalore

No 1372
25/2/39. To

1.7-37-12

The Muzrai Commissioner in Mysore,

Bangalore.

R. No 667

Sir,

With reference to correspondence ending with your letter No.H.C. 35/37-38 dated 19th September 1938 regarding the appeal of Bhujabalaiah and others claiming Kadim tenancy rights in certain lands belonging to the Jain Temples at Sravanbelgola, I am directed to observe that your order has proceeded on the basis that Government Order No.1726-72 dated 6th June 1889 has finally decided that the appellants are mere tenants-at-will, while the contention of the appellants is that the Government Order under reference does not apply to these lands as it was specifically passed with reference to 62 acres and 5 guntas (Survey Nos.141, 26 and 25) of land in Hosahalli village and that the appellants are in possession of evidence to show that they have been in possession of the lands from long prior to the grant of the inam to the Temples in 1830, and that notwithstanding the passing of the Government Order dated 6th June 1889 they have continued to be in possession as permanent or Kadim tenants, for nearly 50 years, paying Kandayam on this basis.

I am to request that the matter may be enquired into in detail affording the appellants an opportunity to adduce such evidence

FEB. 1939 GEN. & REV SECTT.

as they chose to and a report together with findings on the above points submitted at an early date. The connected records accompany.

I have etc.,

General Secretary to Government.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 24th February 1939.

No. 1372 Mug 151-37-12 / Records Cutchi Misc 25-Mo.

From

The General Secretary to the Government of His Highness, the Maharaja of Mysore

To

The Muzrai Commissioner in Mysore,
Bangalore.

Sir,

With reference to correspondence ending with your letter No.H.P.35/37-38 dated 19th September 1938 regarding the appeal of Bhujabalaiah and others claiming Kadim tenancy rights in certain lands belonging to the Jain temples at Sravanbelagola, I am directed to observe that your order has proceeded on the basis that Government order No.1726-72 dated 6th June 1889 has finally decided that the appellants are mere tenants-at-will, while the contention of the appellants is that the Government Order under reference does not apply to those lands as it was specifically passed with reference to 62 acres and 5 guntas (S.Nos.141,26 and 25) of land in Posahalli village and that the appellants are in possession of evidence to show that they have been in possession of the lands from long prior to the grant of the inam to the temples in 1830, and that notwithstanding the passing of the Government Order dated 6th June 1889 they have continued to be in possession as permanent or kadim tenants, for nearly 50 years, paying kandayam on this basis.

I am to request that the matter may be enquired into in detail affording the appellants an opportunity to adduce such evidence as they may chose to and a report together with findings

P.T.O.

on the above points submitted at an early date.

The connected records accompany.

I have the honour to be,
Sir,
Your most obedient servant,

for / General Secretary to Government.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. 1373/Muz

Dated, Bangalore, 25th February 1939

ENDORSEMENT

Messrs. B.D. Bhujabaliah, Range Gowda & others of
Sravanabelagola
C/o R. Venkataramaiya, Esq., M.A., B.L.,
Advocate, Bangalore City.

Subject:- Appeal re: certain S.Nos of Nagayyana-
koppalu village, Channarayapatna Taluk.

In continuation of this office Endorsement No. 688/Muz. dated 5th November 1938 intimating that a stay order as prayed for by them has been granted Mr. Bhujabaliah and others are informed that the Muzrai Commissioner has been requested to give the appellants an opportunity of adducing evidence in support of their contentions.

By Order,

Sd/- J. Appaji Gowda,

General Secretary to Government

Memo No. 1374/Muz & 25/2/39

Copy forwarded to Mr. D. Dhama Rao, B.A., LL.B., Advocate, for the Jain Mutt at Sravanabelagola.

By Order,

for General Secretary to Government.

SRM.3

Appendix F G—1]

SUBJECT .....

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3C Pers

Diary No. of letter replied to 3841 & 3867

General and Revenue Secretariat

( )

the 193 .

Date of issue 25/7/39

X V.

Signed by Mr S.K.V. 28

M.C. has been invited to give - attachment - representation of any documentary evidence that may be considered in connection with the appeal

List of enclosures nil

Copied by

Examined by

Section

File No. 151-37

Serial No. 13

No 1373

To Messrs B.P. Bhujabalaiya, Rangoon

Letters of Administration &c.

C/o R. Venkatachalam Aiyar & Y.A. Advocates, Rangoon.

Sir,

Appl re certain Nos - Watching and Protection Work - in charge of the A.T.K.

In continuation of this Office Endt No 1372/Mer 5 of 11/38 intimating that a Stay order, as prayed for by them, has been granted, Mr Bhujabalaiya and others are informed that the entire records connected with the appeal have been returned by the M.C. in this Office letter No 1372 of 25/7/39 with a request that an opportunity may be given to them to adduce such evidence as they may choose to record the findings on the several points

arising in the appeal.

WD 71—GPBM—40,000—20-7-31

P.T.O.

No. / 3 Jms 157-37-14/ Enc 1 Petn

From

The General Secretary to the Government of His Highness the Maharaja of Mysore

To

The Muzrai Commissioner in Mysore,
Bangalore.

Sir,

I am directed to forward herewith petition No.45 dated 20th March 1939 from the Swamigalu of the Jain Mutt at Sravanabelagola, Channarayapatna Taluk, complaining that Rangegowda, Bhujabalaiya and other tenants of Nagaiyana Koppalu village, Channarayapatna Taluk, have been cutting green trees on lands in the Khathe of the Mutt thereby causing loss to the Institution.

I have the honor to be,
Sir,
Your most obedient servant,

General Secretary to Govt.

SR/2

Memo No 1374 of 25th/39.

THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 28th March 193 9

No. 1638/Jms/157-37-14/Enc. 1 Petn

From

The General Secretary to the Government of His Highness the Maharaja of Mysore

To

The Muzrai Commissioner in Mysore,
Bangalore.

Sir,

I am directed to forward herewith petition No.45 dated 20th March 1939 from the Swamigalu of the Jain Mutt at Sravanabelagola, Channarayapatna Taluk, complaining that Rangegowda, Bhujabalaiya and other tenants of Nagaiyana Koppalu village, Channarayapatna Taluk, have been cutting grees trees on lands in the Khathe of the Mutt thereby causing loss to the Institution.

I have the honor to be,
Sir,
Your most obedient servant,

General Secretary to Government

SR/2

Appendix F G—1]

SUBJECT .....

.....

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Section Revenue

File No. 151-39

Serial No. 14

Diary No. of letter replied to none

No 1132 /Sec I Pen

To

The H. C.

General and Revenue Secretariat

( )

the *193*

Sir,

Date of issue 28.3.39.

I am directed to forward herewith ~~for~~ petition dated 20/3/39 from and Swamigalu of the Jain Matt at Sravanabelagola, Channarayapatna T.K., Complaining that Rangegowda, Bheja Baladanga Kotwal tenants of Nagaiyanakoppalu Village Channarayapatna T.K. have been Cutting green trees on land in the Khatha of the Matt thereby causing loss to the Dust

Signed by Mr. S.K.V.

List of enclosures .....

Copied by .....

Examined by .....

TYPING SECTION 27 MAR 1939 GEN. & REV SECTT.

Manager
for 28/3/39
Dy Sec I

VD 71—GPBM—40,000—20-7-31.

Ordersplus Asst. Sec
28/3/39

28/3

M. O. 18]
No. H.C.35/37-38

1 Bundle & records.

OFFICE OF THE MUZRAI COMMISSIONER
IN MYSORE,

Bangalore, 19th December 1940

Dairy 151-37-15

FROM

Rukn-ul-Mulk
S. ABDUL WAJID, Esq., B.A.,
~~K.V. ANANTARAMAN, Esq., B.A.,~~
Muzrai Commissioner in Mysore.

GENL. SECRETARY
20 DEC. 1940
951

To

T. Appaji Gowda, Esq., B.A.(Hon.),
Secretary to the Government of His Highness the Maharaja of Mysore,
General *Department.*

GENERAL SECRETARY
20 DEC. 1940

SIR,

Re. Appeal of Bhujabalaiah and others claiming Kadim Tenancy in respect of certain lands belonging to the Jain Temples at Sravanabelagola.

With reference to your letter No.1372/Muz.151-37-17 dated 24/25-2-1939 requesting that the alleged kadim tenancy right claimed by the appellants may be enquired into, in detail, I have the honor to forward herewith a copy of letter No.C.1792/39 dated 3-12-1940, received from the Deputy Commissioner, Hassan District, and to state as follows.

2. The Sub Division Officer, Hassan, has held a detailed enquiry and submitted a report in his No.C.681/37 dated 2nd November 1939, stating that the G.O.No.1726-72 dated 6th June 1889 does not refer to any particular village as alleged by the appellants; and that he is of the opinion that this Government order applies to similar lands at Nagianakoppal, hamlet of Sravanabelagola; that the appellants have not protested and got their claim of permanent tenancy established, either at the time of ~~the~~ Inam Settlement or, at the introduction of original or re-survey settlements; that they admit that they never tried before to get their claims established over the lands under dispute, except at the time of the introduction of the Record of Rights Scheme into the taluq; and that they are not definite as to who effected improvements to the lands. The alienations and other transactions about these lands cannot affect the rights of the Mutt or of the Swamiji, who were not parties to them.

3. The Deputy Commissioner agrees with the Sub Division Officer.

WD 05858—GPB—15,000—3 5 40

19

From

The Deputy Commissioner,
Hassan District.

To

The Huzrai Commissioner in
Mysore, Bangalore.

Dated 3rd December 40.

Despatched

Received

General No.

No. C.1792/39.

Enclosure No.

Sir,

Re: lease of lands standing in the name of the Sri Jain Matt at Sravanabelgola.

With reference to your letter No.H.C.35/37, dated 4th March 39 on the above subject, I have the honorto state that the Sub Division Officer, Hassan, was asked to conduct an enquiry and submit his report with his findings on the points raised by Government in their letter No.1370/Huz. 151-37-12, dated 25th Feby.39 viz.

(i) whether the G.O. of 1889 does not apply to the lands now under dispute.

(ii) whether the appellants are in possession of documents to show that they have been in possession of lands from long prior to the grant of Inams in 1830.

(iii) and whether they have continued to be in possession of lands as permanent or Kadim tenants for nearly 50 years paying kandayam.

The Sub Division Officer, has examined 14 witnesses including the appellants and recorded their statements. He has heard counsels on both sides. Both the parties have produced several documents in support oftheir claims over the Survey Nos. under dispute (noted in the margin).

Sravanabelgola village

S.No.249, 250, 252, 253, 255, 256, 257, 258, 259, 265, 268, 267, 267, 269

The Sub Divisional Officer, has in his report No.S.C.1/37, dated 2nd Novr.39, set forth in detail all the evidence adduced by both the parties, and reports that as regards S.C.No.172 of 72, dated 6th cycle 89, on representation of certain of the villagers for recovering the upset price from them for the lands which they were cultivating, Government after instituting necessary enquiry, passed final orders in 1888 stating that the lands should not be disposed of to others, but should be taken over to the khata of the mutt, and that the contention of the petitioners is, as stated in the appeal petition, that the extent of the properties involved for decision then was 69 acres and odd, whereas that of those now in issue is 44 acres and odd and the orders passed by Government relate to the lands near Gabbadi. The Sub Division Officer, opines that the said Government order holds good in respect of similar lands at Nagiana kepal hamlet of Sravanabelgola as it does not refer to any particular village as alleged by the appellants.

As regards the 2nd and 3rd points raised by Government the S.D.O. opines that the appellants cannot claim kadim or permanent tenancy rights over the lands under dispute and cannot be regarded as Kadim tenants in view of the Government order referred to above, and that as such the appellants are only ordinary ryots with a right to cultivate the lands with a liability to pay rent either in cash or in kind. One Ramaprabhnian who is the decendent of Nagiah, the founder of the Kowal of the same name has produced a saguvali chit purporting to have been issued by Subedar Kaliah (Exhibit W 3) and the year in which it was issued is mentioned to be Rudhirodgari which is a Kannada year coming once in 60 years. The Sub Division Officer, opines that if this had been issued in 1803 as alleged by the appellants to Nagiah prior to the grant of Sravanabelgola village as serve Inam 1830, the parties would not have protested and got their claims established at least at the time of Inam settlement or at the time of introduction of original or resurvey settlements and that the appellants

- -

[illegible] hefore [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] report that [illegible] not definite [illegible] to prove this [illegible] there any documentary evidence to prove this.

[illegible] the allegations and other transactions [illegible] regard to the [illegible] in question, the Sub Division [illegible] that the [illegible] or the [illegible] is not a party to any one [illegible] these [illegible] and transactions [illegible] in [illegible], null and void.

I entirely agree with the Sub Division [illegible].

The [illegible] petitions with their enclosures [illegible] presented to Government are herewith enclosed. The entire records [illegible] the [illegible] also accompany.

I have the honour to be,
Sir,
Your most obedient servant,

[signature]

For Deputy Commissioner,
[illegible] District.

2809.

MWZ·151-37-16

Before the Government
of His Highness the
Maharaja of Mysore
Bangalore

Miscellaneous 2012 - -
453-38

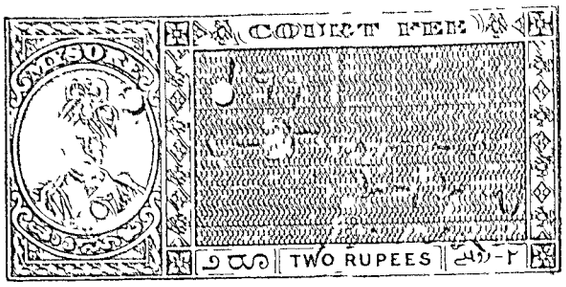
Appellant
Mujeebullah
& others

Vs.

Respondent
Sri Swami
@
Gaja Mallu
@ Swamy
- Mudaliar

Memo

The undersigned who
appears for the Respondent
begs to file herewith a
Vakalath from Sri
Somasundara as the one
already filed was



Before the Governor

ಕೋರ್ಟಿಗೆ.

1937–1938 ನೇ Muzrai ನಂಬರು. 12

ವಾದಿ ಯಾ ಅರ್ಜಿದಾರ್.

Bhujabalaiya and ors

Vs.

ಪ್ರತಿವಾದಿ ಯಾ ಅಪ್ಪೋನೆಂಟ್.

ಮ॥ ರಾ॥ ಯಂ. ನಾರಾಯಣರಾವ್, ಎಂ.ಎ., ಬಿ.ಎಲ್., ಅಡ್ವೊಕೇಟ್ ಯವರಿಗೆ. ನಮ್ಮ ಕಡೆ ಮ॥ ರಾ॥ ಶ್ರೀ ಶಾಮಯ್ಯ ಎಂ.ಎ., ಬಿ.ಎಲ್. ಅವರು

Reshamaiah

ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮಾ.

ಈ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ನನ್ನ ವರವಾಗಿ ಆಜ್ಞೆರುವರಿವಿಗೂ ಕೋರ್ಟ್‌ನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸುವುದಕ್ಕೂ ನನ್ನ ವರ ಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಅರ್ಜಿಗಳನ್ನೂ ಡಿಕ್ರಿಯನ್ನೂ ಜಾರಿಕ್ರಮ ನಡಿಸಿ ಹಣ ವಸೂಲು ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ನನಗೆ ಕೋರ್ಟಿನಿಂದ ನಲ್ಲಬೇಕಾಗಿರುವ ಡಿಕ್ರಿ ಮೊಬಲಗು, ಶಿಲ್ಕು ಮೊಬಲಗು ರಿವಂಡು ಸ್ಟ್ಯಾಂಪು ಮೊಬಲಗು ದನ್ನು ವಜು ವಗೈರೆಗಳನ್ನು ಪಾವಸು ವಡೆಯಲಿಕ್ಕೂ ಸೂಕ್ತ ಯಾ ಯುಕ್ತ ತೋರುವಂತೆ ರಾಜಿ ವಗೈರೆ ಮಾಡಿಸಲೂ ಸಹ ತಮಗೆ ಈ ಮೂಲಕ ಸಂಪೂರ್ಣ ಅಧಿಕಾರ ಕೊಟ್ಟಿರುತ್ತೇನೆ. ನನಗಾಗಿ ನೀವು ಮಾಡಬಹುದಾದ ಎಲ್ಲಾ ಕೋರ್ಟು ಖರ್ಚುಗಳಿಗೂ ಮತ್ತು ನನ್ನಿಂದ ನಿಮಗೆ ನಲ್ಲಬೇಕಾದ ಬಾಕಿ ನೀಜಿಗೂ ನಾನು ಬದ್ಧನಾಗಿರುವುದಲ್ಲದೆ ತಾವಾಗಲಿಯಾ ತಮಗೋಸ್ಕರ ಮತ್ತಾವ ಲಾಯರಾಗಲಿ ಡಿಟೋ ಮೊಕದ್ದಮೆಯಲ್ಲ ನಡಿಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನು ನಾನು ಮುಮ್ಮು ಇದ್ದು ನಡಿಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧನಾಗಿ ಇದ್ದೇನೆ.

ರುಜು

ಶ್ರೀ ಸ್ವಾಮಿಗಳವರು

ಈ ಮೊಕ್ತಾರುನಾಮಾ ಕೊಟ್ಟವರು ನನಗೆ ವರಿಚಯಸ್ತರಾಗಿ ನನ್ನ ಸಮಕ್ಷಮ ರುಜುಮಾಡಿರುತ್ತಾರೆ.

ಈ ಮೊಕ್ತಾರುನಾಮಾ ಅಂಗೀಕರಿಸಿ ಇದೇನೆ.

ತಾರೀಖು 30/11/1937

Advocate
21/12/41

The Town Press, Bangalore City.

Appendix F G—1]

SUBJECT.....

.....

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Section Hun

File No. 151-37

Serial No. 17

No. 1754/Genl.

To

The M.e.

Diary No. of letter replied to. 1515

General and Revenue Secretariat

( )

the 193 .

Date of issue 2-4-42

Signed by W. S. K. V.

Sir,

In forwarding herewith application of 14.3.42 from the agent of Sri Sravanabelagola Mutt - Channarayapatna Taluk on behalf of the Swamiji of the said Mutt, I am directed to request that, as regards certain S. Nos of Nagenahalli Sravanabelagola Village which are now in dispute & which are now Covered by the Stay Order communicated in this office memo No 689/Rev 151-37-9 dt 6/11/38 action may

List of enclosures for Govt.

Copied by

Examined by

WD 0563—GPB—30,000—6-1-39

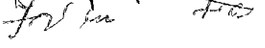
be taken to lease them.

I have etc.

for

Forgo Secy -

The Agent of Nawab Golapsha Mill c/o
Copy to M. D. Shama Rao BA BL-D.
Advocate Bundelkhand ... for information -



GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

General and Revenue Secretariat,

Dated Bangalore, 2nd April 1942.

No. 1758 Gen Ref^n
Jamp/151-37.37

FROM

The Secretary to the Government of His Highness the Maharaja of Mysore,
General Department.

To

The Muzrai Commissioner in Mysore,
Bangalore.

Sir,

In inviting reference to Memo No.689/Muz. 151-37-3 dated 5th November 1938 directing the stay of the execution of your order in Muzrai appeal ~~am~~ No.15/37-38 pending disposal of the appeal preferred by Bhujabaliah and others before Government, I am directed to forward herewith a petition dated 14th March 1942 from the Agent of Sri Sravanabelagola Mutt, Channarayapatna Taluk and to state that, as regards the Survey numbers of Nagaiyana Koppalu Village, Sravanabelagola Dakhale which are not in dispute and which do not form the subject-matter of the appeal ~~but~~ before Government, action may be taken to leave them.

I have the honour to be

Sir,

Your most obedient servant,

Sd/- J. Appaji Gowda,

Secretary to Government,
General Department.

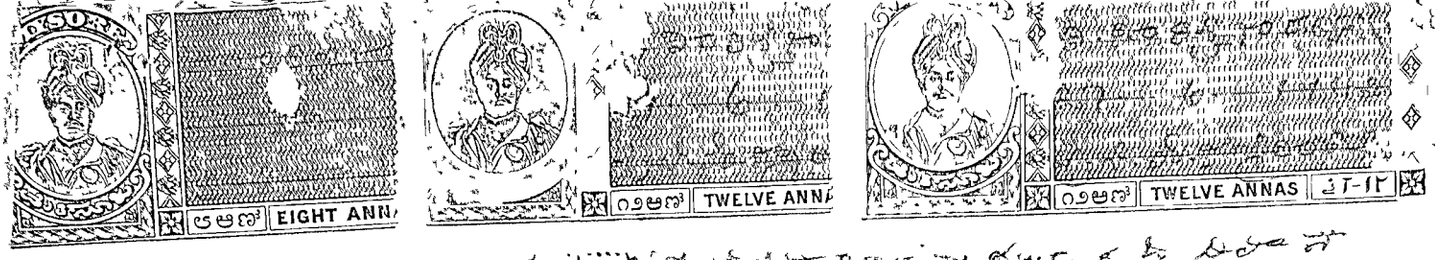
BHK/3.
Memo No.

Bangalore, dated, April 1942.

Copy to the Agent of Sri Sravanabelagola Mutt, c/o Mr. D. Shama Rao, B.A.,LL.B., Advocate, Bangalore city, for information.

By Order,

For Secretary to Government,
General Department.



MMV.

R 298

OFFICE OF THE DEWAN OF MYSORE.
Date of receipt 13.7.42
Petn. Regr. No. 1937-1944

Appeal

OFFICE OF THE DEWAN
OF MYSORE.
Date of receipt 16.7.42
Petn. Regr No 48

R 298

Before the Government of His Highness the Maharaja of Mysore - Bangalore.

Muz. Appeal No. 12 of 1937-1938.

Appellants:-	Vs.	Respondent:-
B.P. Bhujabaliah and others.		Sri Swamigalu of Sri Jain Mutt. at Sravanabelagola.

Petitioners:- 1. Hullumane Rame Gowda. son of Venkatagowda of Nagayakottalu.
2. Bale Rame Gowda, son of Kamlegowda. of Nagayakottalu.
3. Putte Gowda, son of Jinnathapura.
4. Nanjundiah, son of Kale Gowda. of Nagayakottalu.
5. Barathiah alias Nagappa son of Venkatarangane Gowda Nagayakottalu
6. Narasimha gowda, son of Kale Gowda. dide
7. P. Parswanathiah, son of Ponnaiah of Sravanabelgola.
8. ~~Subbe Gowda, son of Venkatasami~~ Gowndiah son of Muttaiah.

All agriculturists and reside at Sravanabelagola, Chennarayapatna Taluk.

The petitioners abovenamed most humbly and respectfully beg to state as follows:-

as follows:-

1. That in the Panchsal Maraj held by the Government in the year 1927-28 in respect of the lands belonging to the Respondent, the petitioners purchased the - - leasehold rights as the highest bidders - on an annual gutta of Rs. 119-0-0 and in - addition to the payment of annual assessment to Government of Rs. 87-8-0.

2. The sale was confirmed and the Kaguvali chit also was issued to the petitioners, but before the petitioners could take possession of the lands and cultivate them, the appellants in the above appeal preferred an appeal and have obtained a - stay order with the result that we are - kept out of possession of the lands - - and the appellants have continued to remain in possession and enjoyment of the - - lands.

3. That at the time of sale the petitioners have deposited one year's gutta of Rs. 119-0-0 and since the date of sale, and notwithstanding the fact that a stay order has been issued, the Revenue authorities have recovered the assessment for the last four years by taking coercive - - measures

measures against us, and we have in all paid Rs. 350-1-0 to the Government by way of assessment, and the Revenue authorities are putting pressure on us for payment of the assessment for the year 1941-42 also.

4. But in the meanwhile the five years period of our lease having expired, the Government have ordered fresh sale and the sale was actually held on 13-6-1942 and some other - - persons have purchased the lease hold rights.

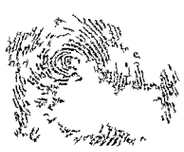
5. The petitioners have thus lost the chance of ever enjoying the lease hold rights by virtue of the sale in their favour.

6. That in consequence of the stay order ~~obtained~~ obtained by the appellants in the - - above case the petitioners have not only - - been obliged to pay one years gutta and four - years assessment for the lands which never came to their possession, but have also lost the chance of realising the produce from the - lands which they estimate at Rs. 200/- per Two hundred year.

7. The petitioners are legally and equitably entitled to the return of the - - gutta advance and the assessment paid by them with interest by way of damages at one per - cent

cent per nensem in addition to compensation. Besides the petitioners are also entitled to claim damages for loss of profit from the appellants as by their acts the petitioners were prevented from realising the produce all these five years.

Therefore the petitioners most respectfully pray that orders might kindly be passed for repayment of the said amounts of Gutta advance and assessment with interest and also compensation and permission be - - granted to the petitioners to proceed against the appellants for recovery of the profits which the petitioners would have realised in the said lease transaction.



C4 C 681/3
Records -

Office of the Assistant Commissioner,
Hassan Sub Division,
Dated, Hassan, the 2nd November 1939.

M E M O

Submitted to the Deputy Commissioner, Hassan District.

Subject:

Bhujabaliya and others of Sravanabelagola claiming Kadim tenancy rights in certain lands belonging to the Jain temples at Sravanabelagol

Appellants.

1. B.P. Bhujabaliya.
2. Rangegowda son of Nanjegowda.
3. Rangegowda son of Ramegowda.
4. Ramegowda son of Govindegowda.
5. Yennappagowda, son of Manjegowda.
6. Lakkappa alias Kempegowda.
7. Chikkaveeregowda.
8. Ramegowda son of Yallegowa.
9. Lakkegowda.

Vs.

Respondent.

*Sri Swamigalu of Sravanabelagola Mutt, Chennarayapatna Taluk.

In pursuance of the Government Order No.1372/Muz.151-37-12 dated t 25th February 1939 and the Muzarai Commissioner's memo No.H.C.35/37 date the 4th March 1939 communicated through the Deputy Commissioner's Memo No C.1792/37 dated the 21st March 1939, a detailed enquiry was held in the matter.

Mr. H.V. Rangaswamy, advocate, for the appellants and Rao Bahadur Nanjundiya, pleader for the respondent.

The enquiry discloses the following: ——

G.K. Padmarajiva P.W.1 was examined in detail. He has stated as follows. He has produced one document marked as Ex.1. showing the division of properities among the family of Bhujabaliya, the appellant in t case. He has admitted having signed the document, his signature is marked as Ex.1.(a) (1). He has produced another certified delivery copy marked as Ex.3.showing the lands of C.V. Bhujabaliya taken over to the

p.t.o.

the possession of Brass Company at Sravanabelgola. It is stated that C.V.Bhujabaliya was once a clerk of the company. As he ran away with 30 or 40 thousand rupees his lands were attached through the court and were taken possession of by the said company. They are now in the possession of the said company. All the other assessees who were with him when the properties were divided are all dead and gone. He identified Padmaprabhiya, P.W.2 as the descendent of Nagiya. He is stated to have seen Nagiyanakoppal which is about ¾th mile from Sravanabelagola. He has further stated in his cross examination that he has no personal knowledge of the lands at Nagiyanakoppal and the properties divided by him. They were divided at the direction of the parties and he does not know who are enjoying these lands. He is state to have seen Annaiyappa who was the great grand father of Padmaprabhiya (P.W.2). He has not seen Nagiya. Parswachandriya was the younger brother of C.B. Bhujabaliya clerk of the Brass Company. He identifies the document produced as Ex.A and the handwriting of Parswachandriya. He does not know what the document is.

Padmaprabhiya P.W.2. States as follows:—He is the son of Nagaraiya. His ancestor one Nagiya purchased the koppal for 12½ Varahas (ವರಹಗಳು) from "Subedar" Kaliya. He has produced a copy of the saguvali chit marked as Ex.4 (The counsel takes objection as the saguvali chit is neither original nor authenticated). He has stated the geneological tree of his ancestor Nagiya as follows:

Nagiya, wife Sirasamma.

Tabbanna.

Annaiyappa.

Nagarajiya — Appanniya.

Pommiya — Padmaprabaiya (P.W.2)

He states that as it is written in Ex.4 that lands from Jiganikatte to Kivadikatte are the lands of Khate No.2 of the Mutt. Sirasamma, wife of Nagiya was enjoying these lands. He has produced one receipt marked as Ex.6 showing the bond expenses of Rs.13-8-0 paid by Sirasamma to the Swamiji of Mutt on 30 May 1888. He has produced one sale certificate marked as Ex.7 (dated 16th February 1889 regarding the sale of S.No.264 wherein the boundaries of the land are marked.

After the death of Sirasamma, the properties came to the possession of this father Nagarajiya and paternal uncles Appaiya, Pathraiya and Dharmaiya. Patharajiya sold his lands to Chikrangiya one of the appellants in this case. He has produced three demand notices marke as Ex.8 series. They are issued from the Taluk Office for Land Reven arrears due on khate No.2 from Swamiji of Mutt and "Shikkmi" saguvali dar, Appannaiya. Of these, two are in original. They are dated 1908-09 and 1909-10. Another is a copy dated 1928-29. He got some more lands from his elder brother Pommiya which are also in his -- possession. The registered document to prove this is produced and m ked as Ex.9. He has produced five receipts issued to Sirasamma from the Mutt for having paid Kandayam to khate No.2. They are marked as Ex.10 series. They are as follows:—

1. Sirasamma "shikmidar" for khate No.2		Rs.14 dated	31-5-1887
2. " for Patta No.15		Rs.20-7-8 "	30-9-88
3. " "		Rs.20-7-8	21-7-1889
4. " "		Rs.20-7-8	16-5-1890
Nagarajiya for Sirasamma's Patta		Rs.20-7-8	29-3-1891
5. Nagarajiya "		Rs.20-7-8	14-4-1893

He has produced 16 receipts given by the Mutt to his father Nagaraji shikmidar of khate No.2 for having paid Kandayam to Sirasamma's patta They are from the year 1892 and onwards.

	Rs as P	
1.	20-7-8	27-4-1892
2.	20-7-8	25-4-1897
3.	6-12-3	9-5-1907
4.	6-12-3	8-5-1908
5-9.	6-12-3	20-5-1909 to 19-4-1914 at Rs.6-12-3 excluding the year 1913 (no receipt).

The following receipts are in the name of Pommaya son of Nagarajiya.

	Rs	
10.	6-12-3	6-5-1916
11.	4-10-8	21-6-1917
12.	2-4-5	21-6-1917
13.	2-4-5	21-4-1920
14.	4-8-10	25-5-1921
15.	2-4-5	6-5-1921.
	Rs	To Appanniya.
16.	6-13-2	25-6-1928
17.	6-13-2	28-29

He has produced further 13 receipts marked as Ex.12. They are given to his paternal uncle Appanniya from the Mutt for payment of Kandayam. They are as follows:—

panniya, brother of Nagarajiya.

R. and	Notice.	Int.	Date.
6-13-2	0-8-0		12-7-1906
6-13-2	0-8-0		10-5-1910
6-13-3	1-0-0	0-2-0	9-11-1910
6-12-2			18-5-1911
6-13-2	0-8-0		30-7-1911(not clear)
8-10-4(including arrears)	0-4-0		1-12-1915
6-12-2			6-[illegible]5-1916
6-13-2			9-5-1917
7-0 -6		0-3-6	15-1-1919
6-12-2.			1-5-1920
9- 1-0(two years)			[illegible]-7-1924
7- 3-10			23-9-1925
7- 7-2			30-4-1928

He has again produced some receipts marked as Ex.13 given by tt to his elder brother Pommiya for having paid Kandayam to - ate No.2 of Mutt and Patta No.15. It is in a form of book. ey are from 19-5-1918 to 18-7-1933 except for two years i.e., for 920 and 27.

Lastly he has produced a book marked as Ex.14 showing the kandayam paid by him to the Mutt.

.4 8 10 on 30-4-1931
.4 8 10 on 30-6-1932
.4 8 10 on 30-6-1933
.4 8 10 on 15-6-1934
.4 8 10 on 29-7-1935.

He has stated that S.No.261 and ¼ portion of S. No.258 of khate o.2 are in his possession. He enjoys the usufruct of the trees in these lands. The Mutt has got a right for Kandayam only. There is a well in S.No.261. There are dilapidated walls to show that their ancestors lived in S.No.261, and he is not living at Sravanabelagola.

Brahmalavathamma P.W.3.

She has stated that she got possession of certain portions of and out of S.No.249 and 250 through her 2nd son Parswachandriya-. The document connected with the same is produced and marked as Ex. 15. She has got two sons one Bhujabaliva and another Parswachandriya. She has produced a copy of another document marked as Ex.16 to show that these lands were purchased for Rs.600 from Nanjamma of -- Nagiyanakoppal on 26-12-1918 by her 1st son Bhujabaliya. But her second son got these lands to his share when the properties were divided among her two sons.

The lands that her 1st son Bhujabaliya got are in the possession of the Brass Company. They came from their fore-fathers' time. Bhujabaliya (P.W.4) has also got share out of these lands. The father of Bhujabaliya and her father-in-law ~~xxx~~ were brothers. ~~He~~ S/C has produced four receipts marked as Ex.18 series for having paid kandayam to Mutt by her husband. Bommiya and his borther Pommiya jointly.

1. Bommiya. Patta No.8 (husband and P.W.3 patta No.3.	4-5-3 4-10-5	}	22-4-1895
2. Bommiya Patta No. 8 Pommiya " " 13	8-15-8		2-5-1894 22-4-1895
3. " "	8- 15-8		7-4-1806
4.(not definite)	41- 3-5		

She has produced three more receipts marked as Ex.17 series for having paid kandayam to Mutt for khate No.2 by her.

Brahmavathamma, wife of Bommiya.

"Shikkmi Saguvalidar"

Patta No.8	4	7	10	8-5-1905
Patta No.13	4	7	10	12-5-1913
"	4	7	10	10-6-1914

Bhujabaliya (P.W.4) states as follows:-

He has produced one registered mortgage bond marked as Ex.19 to show that certain portions of S.Nos.257 and 269 were mortged in the year 6-3-1899 by Nanjegowda in favour of his brother Bommiya. He has got certain portions of land in S.Nos.253,256,257 and 269. P.W.3 Brahmavathamma is his "Athige" (ಅತ್ತಿಗೆ) As the sons of his elder brother did not pay money to Nanjegowda, these lands also came to his possession. Ex.20 is another mortgage document dated 11-4-1917 executed by Basava, son of Nanjegowda in his favour. Ex.21 is the another mortgage deed dated 11-4-1917 executed by Lakkanna, another son of Nanje Gowda in his favour as the two sons of Nanjegowda were divided. ~~The~~ he and his younger brother were divided. As Basava and Lakka did not pay the debts due to him and his younger brother, the lands were sold to his younger brother. The sale deed connected with them ~~are~~ is marked as Ex.22/10-2-1924 and 23/1-3-1924 executed by Lakka and Basava respectively in favour of his younger brother and his son in favour of him. It is dated 23-3-1936. Ex.25 dated 23-3-1936 is another sale deed of S.No.257 executed in his favour by one Lingegowda. (Ex.25 'a) is the sale certificate for having obtained possession of S.No. 257 in a Civil

court. He has stated that his brother's son (son of P.W.3)had a share in S.No.257. As he defalcated some money in the Brass Comany, his share of land was taken possession of by Government. He has produced Ex.26 and 26 (a) for having purchased the produce out of the land in Government possession.Ex.27 is another document to show that S.No.257 was mortgaged in favour of his father by one Kamba, son of Chikka. Ex.28 is the sale deed for having purchased ~~xxxxxxx~~ S.No.257 by his father from Nanja wife of Kamba on 27th February 1879. Ex.29 and 30 are the ~~xix~~ sale deeds for having purchased some more portions of S.No.257. He is stated to have been enjoying S.No.253 from his fore-fathers' time. There is a well in S.No.253 by name Bhujabaliya's pond. He is stated to have been enjoying S.No.256 from his fore-fathers' time. There are documentary evidence for this with him. Ex.26 shows the boundary of lands where it is written as Mutt's own land. This is marked as Ex. 26 (b). He has produced one book showing the receipts for having paid kandayam to khate No.2 of the Mutt by Parswanathia, son of Puttiya. They are from the year 18-6-1924 to 1930 at Rs.5-2-10 per year. ~~They~~ ~~are~~ ~~from~~ One receipt is enclosed which is for Rs.1-12-0 dated 26th June 1932.

Suriya.P.W.5. He has produced one document marked as Ex.31 for having purchased the land by his father from one Nanjunda of Nagavanakoppal. He does not know the S.No. of the land which he is enjoying. He has produced one book marked as Ex.32 showing the receip given by the Mutt for having paid kandayam to khate No.2 of the Mutt They are dated from 8-5-1908 to 1921

He has paid Rs.2-15-3 every year and he has paid as follows: from 1924.

Rs.3	0	6	on	14-6-1924
Rs.3	0	6	on	6-6-1925
Rs.6	0	0	for	25-26 and 26-27
Rs.3	0	6	on	16-5-1928
Rs.3	0	6	for	1928-1929.

Puttaswamigowda. P.W.6.

He has stated as follows:— Formerly he belonged to Uttenahalli (which is half a mile from Nagiyanakoppal) before he came to Nagiyanakoppal. Venkatappa was his great grand father, Thotada Ramiya was his grand-father. They were two brothers, and the other brother's name was Bhimaiya. Ex.33 is the sale deed through which he got some portions of S.No.267. This is dated 6th June 1903. He got this from the sons of his uncle as they had some debt. He has produced 14 old receipts marked as Ex.34 for having paid kandayam to Mutt by his ancestors. They are dated from 1836 and 1842 (1843 - not clear), 1866, 1867, 1868, 1869, etc. He has produced another book marked as Ex.35 showing the receipts given by the Mutt to his father Govindaiya for having paid kandayam to him. They are dated from 1893. He has paid Rs.3-12-8 every year. The last receipt is dated 9th May 1918. Ex.36 is another book showing the receipts given by the Mutt for having paid kandayam for khate No.2. They are from 1920 to 1935. He has paid Rs.1-4-5 every year. He has stated that in Ex.7, the boundary of land is given, wherein it is stated that "Boundary of Govindiya." This Govindiya is his father, the owner of S.No.267.

Sannarangegowda P.W.7 He has stated as follows:—— His fore-fathers are of Arkalgud, and his grand father's name is Annaiyappa. He has got a father 70 or 80 years old. He purchased S.No.264 from Brahmasuriya. The same was purchased by Brahmasuriya through a revenue sale sold for

for arrears of Land Revenue due from one Chike Gowda. The sale certificatex produced is marked as Ex.7. The garden on the north of this S.No. is in possession of Venkataramiya's descendants i.e., Sannaramiya, Javariya and Puttiya. S.No.270 is the Thope close to Nagiyana-Koppal. The same is in the possession of the descendants of Nagiya. S.No.260 is Nagiyanakoppal where he is living. The Survey Numbers under dispute belong to khate No.2 of the Mutt, and Survey Numbers 254, 266, 263 and 262 belong to khate No.1 of the Mutt. Survey Numbers 262 and 263 are garden lands of the Mutt which are marked as "Ex.7". He is cultivating Survey Numbers 276 and 277 of the Mutt through a registered karar. These Survey numbers belong to khate No.1 of the Mutt. He has produced receipts marked as Ex.37 for having paid gutta to the Mutt. There are saguvali chit issued and seven receipts. But they have not executed a similar karar in respect of S.Nos. of khate No.2 of the Mutt. He is in possession of S.No.269 of Nagiyanakoppal from his fore-father's time. S.Nos.258 and 268 are dry lands purchased by him from Patharajiya, grandson of Nagiya. The Koppal stands in his name. The copy of sale deed is marked as Ex.38. The original is in Special Court. They have constructed a pond and chattram costing Rs.3,000 in S.No.269 which was completed about four or five years back. No body raised objection to this. Arkalgud Ramiya was his great grand father and receipts marked as Ex.39 is given by the Mutt to him for payment of kandayam during 1883 (Rs.5-0-4) Ex.40 is the receipts given by the Mutt to his great grand father, Arkalgud Ramiya. They are in a book form. They are dated from 1898 and Rs.5-4-4 is paid every year. The last receipt is dated 14-5-1915. Ex.41 is the receipt granted to his father. A sum of Rs.5-4-4- is paid during 1906, Rs.2-10-2 in 1912, Rs-2-10-2 in 1913, Rs.2-10-2 in 1914. Ex.42 is the receipt granted to his grand father's uncle who had a share in their lands. A sum of Rs.2-10-2 is paid during 1911 and Rs.2-10-2 from 1916 to 1922, and Rs.2-11-6 from 1923 to 1929. Ex.43 is the receipt given by the Mutt to his father for payment of kandayam. A sum of Rs.2-10-2 is paid from the year 1916 to 1922. ~~A sum of Rs.2-10-2 is paid from the year 1916 to 1922.~~ A sum of Rs.2-11-5 is paid every year from 1923-1935.

Sanna Ramiya P.W.8. He has stated as follows:—

S.No.250 dry and 265 garden lands of Nagiyana Koppal are in

in his enjoyment. They are in his possession from his grand father's time. He does not know how they came into his possession. His grand father's name is Arunappa. Ex.44 is the receipts (book form) given by the Mutt to his grand father and by him for payment of kandayam from 1897. A sum of Rs.2-14-9 every year from 1897 to 1912 and Rs.1-12-9 from 1913 to 1918, Rs.0-14-4 during 1919, 1920, 1921 and 1922, and Rs.0-14-9 from 1923-1932 was paid as assessment.

Parswachandriya, alias Chikannaiya. P.W.9.

He has stated as follows. He and his elder brother Bhujabaliya had lands at Nagiyanakoppal. His elder brother's share of land is in the possession of Brass Company. He has given his share of land to his mother through registered bond marked as Ex.15. The Ex.A. was shown to him and he said that he is not in possession of the land as per that bond. He admits that there is some misunderstanding between himself and swamiji regarding certain amount.

Kempaiya P.W.10. He has stated as follows:—

He has got lands at Nagiyanakoppal. Ex.46 is the copy of sale deed for having purchased certain portions of land out of Survey Nos.259 and 256 of Nagiyanakoppal from Nanjamma wife of Hutchegowda. The original sale deed is in special court. Ex.44 is another sale deed dated 23rd April 1907 for having purchased land in Nagiyanakoppal by his father from one Lakkegowda. Ex.48 series are the receipts given by the Mutt to his father and to him. A sum of Rs.2/- is paid every year from 1914 to 1923 Rs.2-1-0 from 1924 to 1925 and Rs.3-15-6 from 1926 to 1932.

Lakkegowda P.W.11. He has stated as follows:—He has got some land in Survey No.259 of Nagiyanakoppal. Ex.47 is the sale deed dated 23-4-1907 to show that some portion of land in Survey No.259 sold to Kempiya P.W.10. He is enjoying this land from his fore-fathers' time. Shanbhogue Linganniya, the father of the present shanbhog Sreekantiya, has written this sale deed. Kempiya (P.W.10) is his wife's brother.

Yannappa P.W.12. He has stated as follows:—

He owns lands in Survey No.256 and 257 in Nagiyanakoppal which he is enjoying from his fore-fathers' time. Ex.49 is the receipts given by the Mutt for payment of kandayam from 1924-1952. He has paid Rs.1-13-1 every year (during these years).

Chikkaveeriya P.W.13. He has stated as follows:—

He has produced Ex.50. It is the copy of a gift deed showing a portion of Survey No.250 given to his wife by her father Thimmanna as he had no sons. This is dated 1914. He received this land through his wife. The sale deed of the same is marked as Ex.51. This is dated 1923. Ex.52 is the mortgage bond in respect of this land executed by his father-in-law in favour of Manjappa for a loan of Rs.200/- during 1899. Ex.53 is another document for having purchased this land by his father-in-law from his elder brother during 1898. He is paying kandavam and he has not received receipts.

Rangegowda P.W.14. He states as follows:-

He is the resident of Nagiyanakoppal. Ex.54 is the Survey Map of the village. There is a dispute between them and the Mutt regarding survey numbers from 249 to 268 except 2 or 3 numbers in the middle. He has got lands at Koppal. He has got full S.No.255 and some portions out of S.Nos.252, 256 and 277. He is enjoying a portion of S.No.252 from his fore-fathers' time. Ex.55 is the sale deed for having purchased some portion in S.No.252 by his paternal uncle. This is written by shanbhogue Linganniya. Ex.56 is the copy of sale deed for having purchased Survey No.255 by him from Nanjamma of Koppal. This land was purchased by the husband of Nanjamma from Bhupa Pommiya. Ex.57 is the mortgage deed showing that the land was mortgaged to Bhupa Pommiya by Venkataswamy. Old Survey No.is 117 and resurvey No.is 255. Another mortgage deed marked as Ex.58 executed in respect of this land by Venkataswamy in favour of Govindiya during 1890. Ex.59 is mortgage deed in respect of certain portions of S.No.256 executed by Manjiya in his favour. Ex.60 is the sale deed of the land S.No.25 executed by Manjiya in his favour, as he did not pay the debt. Ex.61 is receipts for payment of kandayam to Mutt by his father. A sum of Rs.1-12-9 has been paid every year from 1896 to 1907 and Rs.2-11-1

in 17-5-1890 and Rs.1-12-9 + 0-14-4 on 29-8-1891. S.No-74 is the khate of swami. It is noted in the "Pahani" Sud, a copy of it marked as Ex.62 is produced. The other survey numbers also i.e. 252, 255, 256 and 257 are noted in the Pahani Sud. Ex.63 is the order of the Sub Division Officer and Deputy Commissioner, connected with Survey No.74.

The contention of the appellants is that they have acquired adverse possession of 14 survey numbers i.e 249, 250, 252,253,255, 257, 258, 259, 261, 265, 267, 269 and 260 of Sravanabelagola village. Sravanabelagola along with other villages is endowed for the upkeep of 32 jain temples. These inam villages are under Government management as per G.O.No.2034/29 dated 19th June 1874.

On the representation of certain people among the villagers for recovering the upset price from them for the lands which they were cultivating, the Government after instituting necessary enquiry passe final orders on 6th June 1889 in G.O.No.1726-72 stating that these lands should not be disposed off to others but they should be taken over to the khate of the Mutt and leased out on Varam tenure. The contention of the petitioners is that this order referred to above relates to the lands at Hosahalli, an Inam village of the Mutt, and not to the lands at Nagiynakoppal. The records relating to the Governmen order referred to above are not available. The Government Order referred to above has been passed in respect of 62 acres 75 guntas assessed at Rs. 310-4-0 belonging to Sarvamanya village of Sravanabelagola and the same order holds good in respect of similar lands at Nagivnakoppal an hamlet of Sravanabelagola. The G.O.does not refer to any partiuular village as alleged by appellant.

Another contention of the appellants is that they have got orders issued by the Amildar to show that they are in possession of the lands in question so far back as the year 17-4-1803, even prior to the grant of the inam which was in the year 1831. It is seen from the Ex.4, they have produced, that the same is not dated correctly. The year "Rudirodgari" (ರುದ್ರೋದ್ಗಾರಿ) is mentioned in it. From this it cannot be made out to what year exactly it refers to. Rudirodgari is a Kannada year which comes off once in every sixty years. If it is 1803 as alle

lleged by the appellants that the grant of land to Nagiya
y the Amildar for payment of Suvarnadaya (cash income) is not
econgised, while granting the entire village unconditionally
s Sarva Inam to the 32 Jain temples at Sravanabelagola in the
ear 1831. If it is in 1863 i.e. sixty years after 1803 which
s another Rudhirodgari year, even then the grant as per exhibit
cannot exist as the Mysore Government during that period was
nder the management of the Chief Commissioner, when the rights of
ersons over the lands were recognised and notified in the year 1887.
ore-over Ex.4 is only a copy but not in original and cannot be relied
pon. The lands which were lying fallow seems to have been given for
ltivation for only one year. Hence the question of grant of these
ands to the appellants' ancestor (Nagiya) as alleged by them is not
oved.

At the time of Survey and Settlement during 1885-86 if they were
ally Kadim tenants as per Exhibit 4, they would not have kept quiet;
ther they would have tried for getting these lands registered in their
mes. The Swamiji is the hakdar of these lands as per Survey and Inam
ettlement records.

As alleged by them if exhibit 4 was really in existence then, they
ould have protested and got their claims established at least at the
ime of setting the Inams during 1831. They have not done so. On the
ther hand the village Sravanabelagola among other villages was granted
s Devadaya Inam during 1831 for the upkeep of 32 Jain temples at
ravanabelagola, unconditionally by His Highness the Maharaja of Mysore.

On perusal of Survey records it is seen that the lands in question
tand in the khate of the Mutt, vide extract of quit rent register
Ex.33); certified copy of Vasul baki patrike for 1885-86(Ex.B.4);
hisal Patrike of 1890 (Ex.B.5); Khetwar patrike for 1887-88 (Ex.B.6)
nd in the resurvey records they are continued to be in the khate
the Mutt. The appellants themselves admit the payment of
ssessment on these lands to the res-

respondent Mutt, in whose khate the lands stood all along. All the records and receipts and other documentary evidences show that the appellants are only "Shikmi Saguvalidars" as can be seen from the Exhibits such as the receipts produced by the appellants and the exhibits 57 and 58. The appellants do not possess any documentary evidence to show that they had tried at any time before this dispute arose, to get their claims established over these lands.

The khatwar shows that the Swamiji is the occupant of these lands before and after resurvey settlement. Besides, the entries in the Khetwar show that the names of the Swamijis are being entered as occupants of these lands whenever there was any change in the personage.

There are so many alienations and other transactions with regard to the Survey numbers under dispute, but the Mutt or Swamiji is not a party to any one of these alienations and transactions as such all these transactions are, in my opinion, null and void.

The contention of the petitioners that there are several lands which being cultivated through the agency of the Sri Mutt in these villages quite apart from the lands with respect to which only the kandayam is being collected all along is not tenable. But the khate of these lands do not stand in the name of the Mutt.

It is alleged by the appellants that these lands under dispute were granted to Nagiya (as per Ex.4). But the exhibit 19 produced by Bhujabaliya (P.W.4) shows that S.No.257 was purchased from one Nanji wife of Kamba in the year 1879. But Nanji is a Vokkaliga by caste and Nagiya is a Jain, as such it leads to doubt whether Nagiya had really been granted these lands as per Ex.4. Ex.34 is the series of receipts produced by Puttaswami Gowda (P.W.6) supports this. They are dated from 1836.

The statements of the appellants to be breif disclose as follows :- Mr. G.K. Padmarajiya (P.W.1) who was examined in this case as a witness has stated that he has no personal

personal knowledge of the lands of Nagi[illegible]anakoppal though he was assessor when the properties of Bhujabaliya (P.W.4) were divided. As regards the statement of Padmaprabhiya (P.W.2) he has stated what he had heard of and does not possess any documentary evidence to prove the geneological tree of his ancestors i.e., Nagiya. But he has stated only that he knows the names of his ancestors as he will be repeating their names in "Deepavali" feast once in a year. As regards the honour he is getting from the villagers of Koppal on every "Yugadi" day there are no documentary evidences to prove this as admitted by him. He too has no personal knowledge of lands which were in possession of Sirasamma wife of Nagiya. Every one has admitted that they did not try to get their claims established over the lands in question at any time except at the time of introducing Records of Rights scheme into to the village. They have all admitted that they are the "Shikmi Saguvlidars". It is stated by the appellants that they have done certain improvements in these lands but they are not definite as to who effected these improvements nor there are any documentary evidences to prove is.

The lands as already stated are Devadaya Inams endowed to 32 Jain temples and confirmed by the Superintendent of Inam Settlement on 1st July 1879. In the case of temple Inam lands the presumption is against the existance of permanent tenancy and the burden of proving such a tenancy lies upon these that allege its existance. The appellants have not proved that these lands were granted to them on permanent tenancy. The mere fact that these appellants are cultivating the inam lands for cash rent is insufficient to confer on these tenants a right of permanent occupancy. The permanent occupancy can only be obtained by grant from an owner of the land who happens to have power to grant such a right. This fact is not made out in this case. The swamiji being the trustee of the temples referred to above is managing the affairs nd the khate of the lands stand in the name of the Mutt. The ppellants cannot now claim Kadim or permanent tenancy rights over

over the lands under dispute as they are Devadaya Inam lands. None of the raiyats can be regarded as Kadim tenants in view of the Government Order No.1726-72 dated the 6th June 1889. As such the appellants are only ordinary tenants with a right to cultivate the lands.

Sd. (x x x)
Assistant Commissioner,
Hassan Sub Division.

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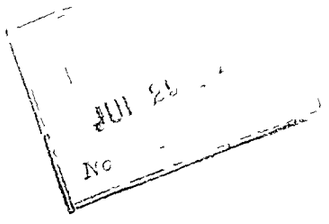
Cells 11



BEFORE THE GOVERNMENT OF H.H.THE MAHARAJA OF MYSORE, BANGALORE.

Muz. Appeal No. 12 of 37-38.

Appellants	Respondent
Bhujabalayya and others.	Sri Sravanabelgola Mutt.

Appellant's Memo.

As directed on the day arguments were heard, the following authorities are submitted for kind consideration.

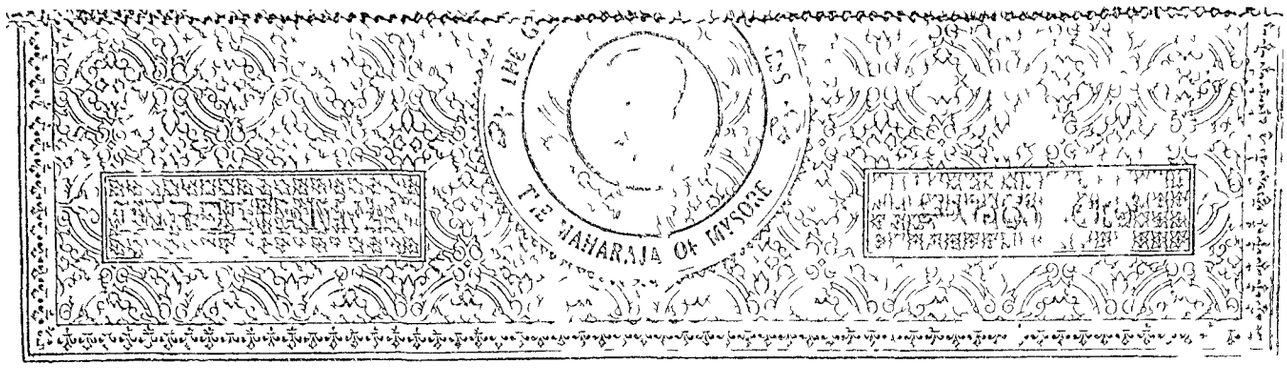
1) Certified copy of Judgment of High Court of Mysore, Bangalore, in S.A.No.402/37-38. (herewith produced).

2) All India Reporter 1941 Calcutta Page 541 (at P.545 Column 2.) (Jogendra Krishna v. Subasini Dassi) column 2. the portion "The trial Judge was in my opinion right in holding that even if the tenancy in its inception was not -- permanent Plaintiff had acquired limited interest of a permanent tenant by adverse possession for more than 12 years."

3) All India Reporter 1940 Patna 131 (Haraseay Prasad Choudhry v. Hamsurat Singh) Head note at Page 132.

Bangalore City
Dated 29-7-42.

Advocate for Appellants



No. 105
Mr. R. Venka
taramiah,
Advocate for
Appellant.

IN THE HIGH COURT OF MYSORE AT BANGALORE.

Thursday, the 10th day of July 1941.

Present

Rajadharmaprasakta

Mr. Justice A.R. Nageswara Iyer,

and

Mr. Justice C. Subrahmanya Aiyar.

Second Appeal No. 402 of 1937-38.

Muthanna, ... Defendant. ... APPELLANT.

-versus-

Venkatappa. ... ... Plaintiff. ... RESPONDENT.

Second Appeal against the decree of the Additional Subordinate Judge of Tumkur in Regular Appeal No. 148 of 36-37, confirming that of the Second Munsiff of Tumkur in Original Suit No. 121 of 34-35.

This second appeal coming on for hearing this day,

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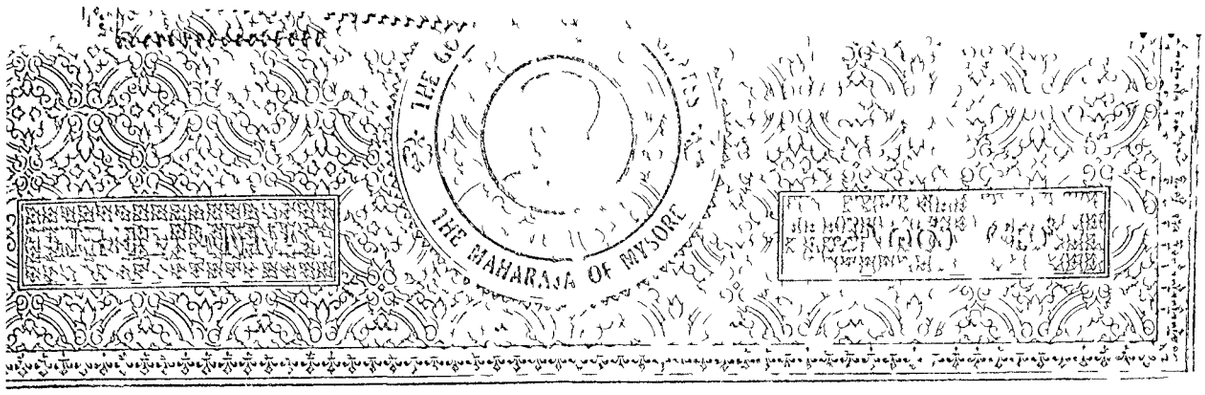

day, the court (Nagesvara Iyer J.) delivered the following:-

J U D G M E N T.

The main question for consideration in this case is whether the plaintiff has permanent tenancy rights in the suit land which is situated in an inam village. The defendant claims to be entitled to that land on the ground that he was given a permanent lease of it by some of the Jodidars. The two lower courts have concurrently found that the permanent tenancy pleaded by the plaintiff had been made out and that he is therefore entitled to possession of the land. That finding is amply supported by the evidence in the case. The Jodidars who have been examined as P.Ws 6, 7 and 10 have consistently deposed that the plaintiff's predecessor-in-title Agasara Mudaligiri or Mudliah was given permanent tenancy rights in the suit

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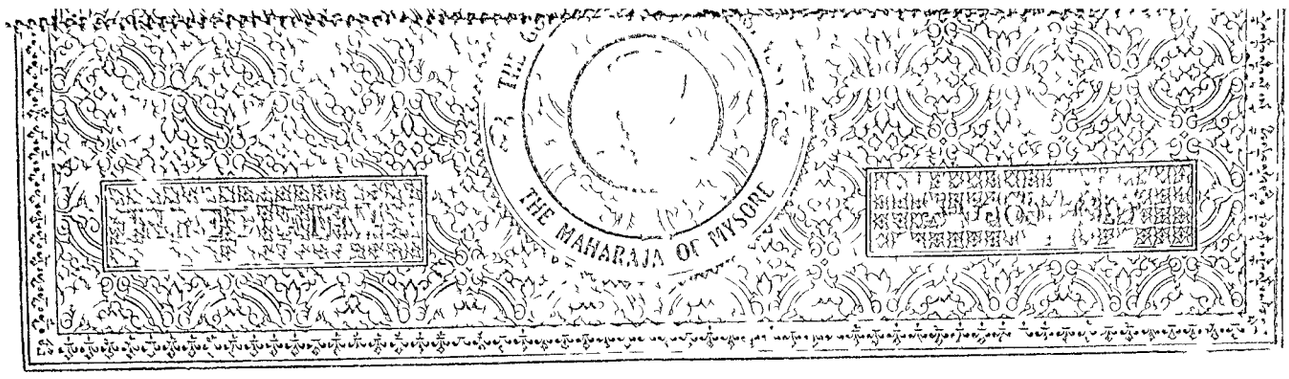

suit property. Even one of the defendant's witnesses, viz. D.W.3, has stated that the Jodidars gave the suit land to Mudalagiri for kandaya about 40 years ago. Indeed, the documentary evidence in the case clearly shows that at least from the year 1899 Agasara Mudalagiri was paying a uniform rent of Rs.4-8-0 upto 1921 when he is said to have died. It appears the village had been mortgaged by the inamdars in the year 1897 as Exhibit E shows and one of the terms of the mortgage was that towards interest due the kandayam payable by the tenants in the village had to be recovered by the mortgagee. Exhibits A.1 to A.6 show that the kandayam of Rs.4-12-6, which presumably includes cess at one anna in the rupee, was recovered from Agasara Mudalagiri. Exhibits E, F, G and H series also make out that a sum of Rs.4-12-6 was being paid right ~~through~~.

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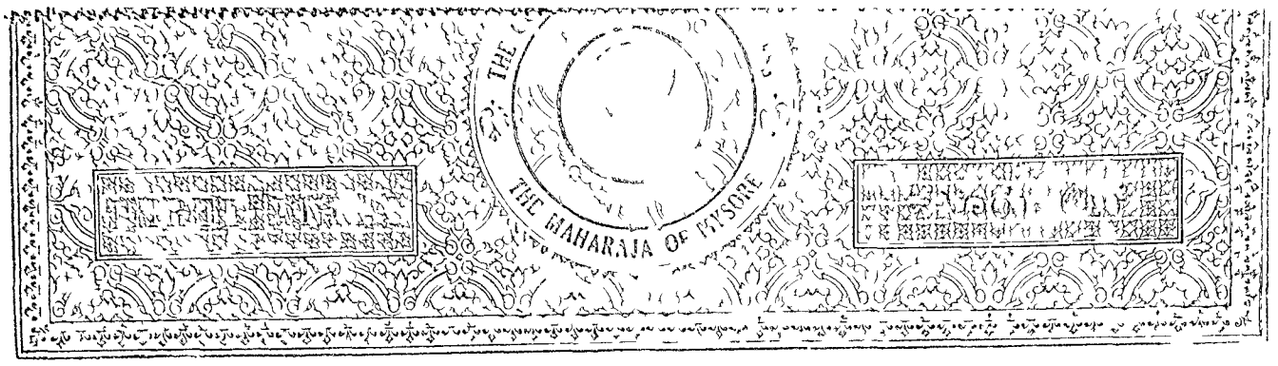

right through. No doubt as was urged by Mr. Venkataramiya for the defendant, in some years the payment was short by 4 annas. That was perhaps the cess payable, which the tenant might have paid later, and Exhibit J.3 on which also Mr. Venkataramaiya relies shows a payment of Rs.1-9-11 But there is no evidence that that was all the amount that was paid in that year by the tenant. Even some of the Witnesses for the defendant and particularly D.Ws.1 and 3 have stated that Mudliah or Mudalagiri was in possession of 'yere hola' or 'yerechowlu hola' on payment of kandayam for many years and that he also dealt with that property as his own. In the plaint it was alleged that the suit property was known as yerechowluhola. That was denied by the defendant in his written statement. But some of the defendant's witnesses themselves have admitted that that was known as yerechowluhola and that Mudalagiri

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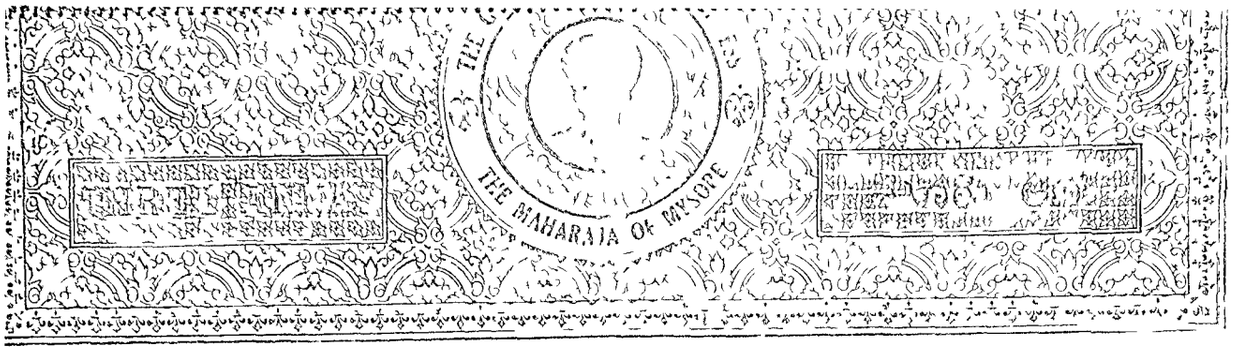

Mudalagiri was in possession of it. The findings of the lower courts are therefore, in our opinion, correct.

But Mr. Venkataramaiya argues that since the plaintiff relied on a deed of lease, Exhibit K of the year 1892 which being unregistered is inadmissible in evidence the plaintiff cannot claim to be a permanent tenant entitled to continue in possession of the land. It is conceded, however, that that document could be looked into for a collateral purpose, namely, to ascertain the nature of plaintiff's possession. The plaintiff's predecessor-in-title asserted from almost the commencement of the tenancy that he was a permanent tenant liable to pay a permanent kandayam. Not only have the inamdars admitted that the plaintiff's predecessor-in-title was given the rights of a permanent tenant but they have collected from him the

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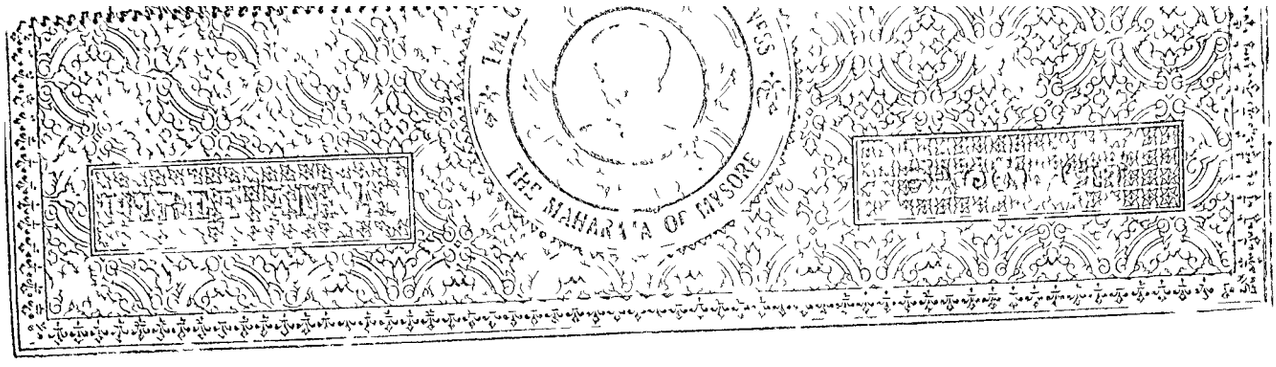

the permanent Kandayam payable. They have acquiesced in the assertion of the plaintiff and his precessor-in-title that they were enjoying the land as permanent tenants; and apart from exhibit A it is clear that by his adverse possession of the suit property for over 12 years as permanent tenant Mudliah had acquired the limited interest of a permanent tenant in the land. That a limited interest in immoveable property could beacquired by adverse possession has been clearly laid down in Ishan Chandra Mitter v. Raja Ramranjan Chakarbutty, 2 Cal. L.J. 125. In that case, the learned judges observes that "....possession of a limited interest in immoveable property may be just as much adverse for the purpose of barring a suit for the determination of that limited interest, as adverse possession of a complete interest in the property operates

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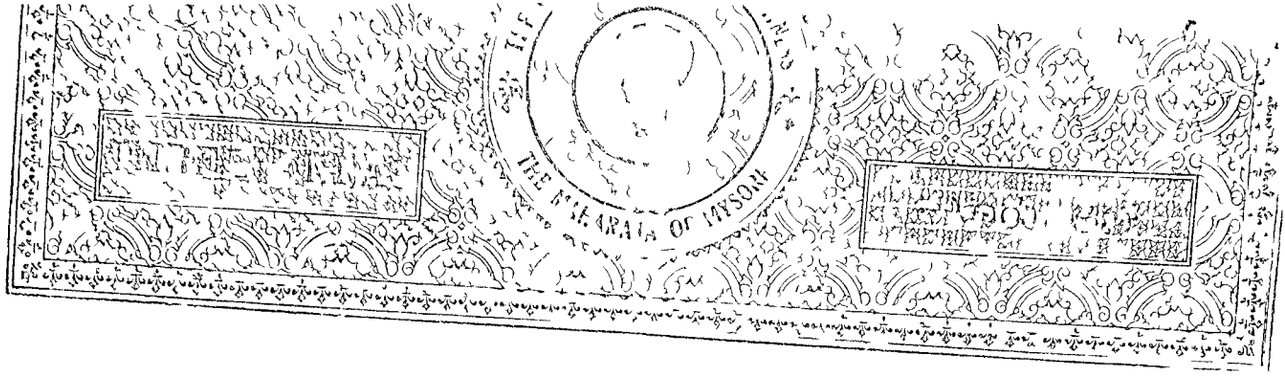

operates to bar a suit for the whole property; but such adverse possession of a limited interest, though a good plea to a suit for ejectment, is good only to the extent of that interest. The nature and effect of possession must depend upon the nature and ~~xxxxx~~ extent of the rights asserted by the overt conduct or express declaration of the person relying on it; there can, consequently, be no acquisition ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ by adverse possession of an absolute title, when it is found that nothing but a limited interest has been asserted." That decision was followed in Icharan Singh v. Bilmoney Baliddr 35 Cal. 470, and in upholding a similar contention the learned Judges observed that "although the defendant has not set up an absolute title for the statutory period and has not consequently acquired by adverse possession such

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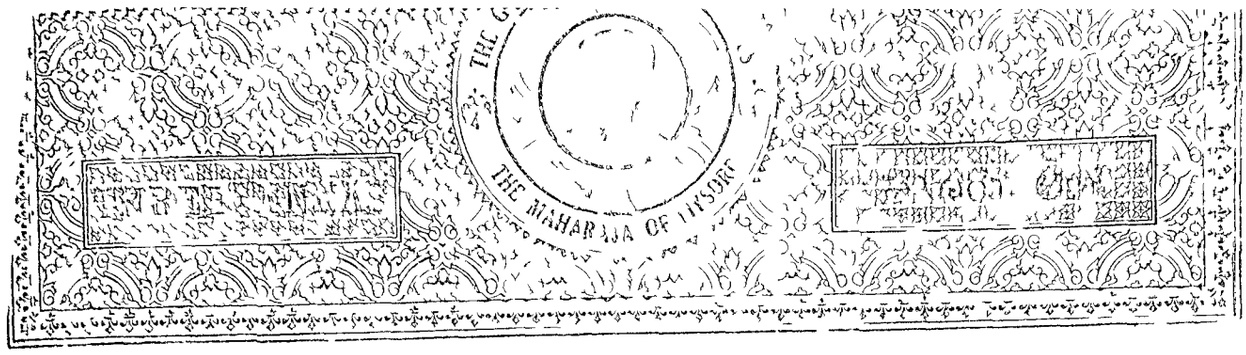

such absolute title, he has yet acquired by prescription the limited interest, which he has set up, namely the interest of a tenant." See also A.I.R. 1926 Patna 241 and 27 Bombay 515. A decision of the Madras High Court in Athiramankutti v. Uppuri, A.I.R. 1967 Madras 126, is on all fours with this case. In that case a permanent tenancy was created by a document which was inadmissible in evidence for want of registration and the tenant claimed permanent rights by virtue of adverse possession. Venkataramana Rao J, in upholding that contention observed: "I quite agree that if the terms of a tenancy are known, a mere assertion by a tenant cannot convert the nature of his tenure, but where either the origin of the tenancy is not known or a document purporting to confer a permanent tenure is invalid for want of registration or otherwise

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otherwise and the defendants have been holding for a period of 12 years in assertion of the permanent right they would certainly acquire a right by adverse possession." With this observation we respectfully agree. Following the principles laid down in the above decision we are of opinion that although Exhibit A is inadmissible for want of registration the plaintiff can reply on it to show the nature of his possession, and since as pointed out above Mudalayya was in adverse possession of the suit property for over 12 years as a permanent tenant he acquired that right by prescription and that the plaintiff who has derived title from him is entitled to succeed in the suit on this basis alone.

Mr. Venkataramaiya however urges that the plaintiff should not be permitted to urge that he acquired permanent

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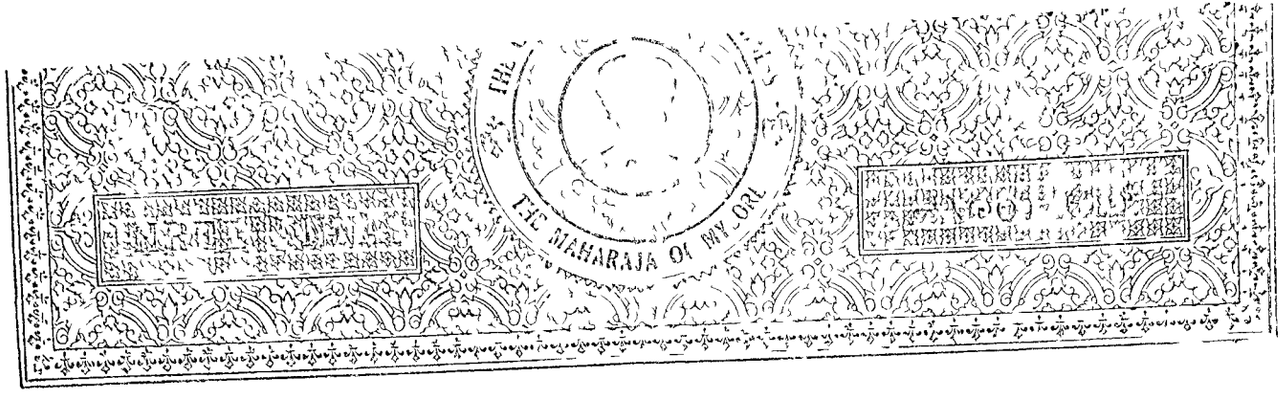

permanent tenancy rights by prescription as no issue was taken by him on that point in the trial court and as the defendant had therefore no opportunity to meet such a claim. But since the plaintiff's case even according to the plaint was that Mudalagiri and subsequently the plaintiff were in possession of the land as permanent tenants and as the evidence of the Jodidars themselves as also the evidence of some of the witnesses for the defendant is clear on the point, we do not see why the plaintiff should not succeed on that basis though no specific issue was raised on that point. It is not suggested by Mr. Venkataramaiya that the defendant has any further evidence to adduce on the question of adverse possession.

Mr. Venkataramanaiya has urged that even on the basis of Exhibit K, the plaintiff's suit must fail as that

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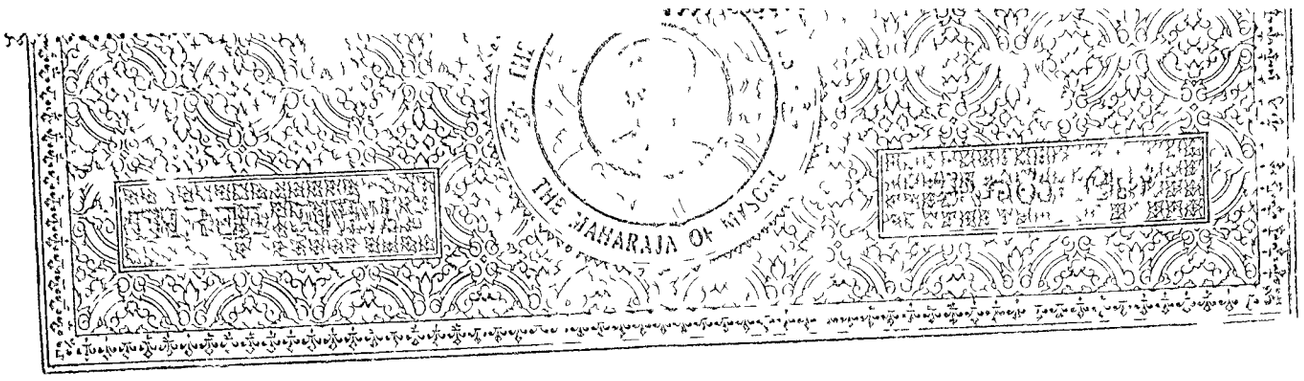

that document conferred a right on Mudalagiri only to enjoy the property during his life-time and that his successors in title cannot claim similar rights of permanent tenancy. The document very clearly shows that he was entitled to continue in possession of the lands paying a fixed rent until he relinquished them. It is therefore difficult to uphold Mr. Venkataramanaiya's contention and a decision of the Bombay High Court in Bai Dona v. Bai Hirgavri, A.I.R. 1926 Bombay 374, is against Mr. Venkataramanaiya's contention. Abdulrahim v. Saraialli, A.I.R. 1929 Bombay 66, on which Mr. Venkataramaiya relies is distinguishable inasmuch as in that case the lease was for a fixed period of 25 years, although the lessee was given the option to continue afterwards as long as he liked.

Another contention urged by Mr. Venkataramaiya is that the plaintiff has failed to make out his title to

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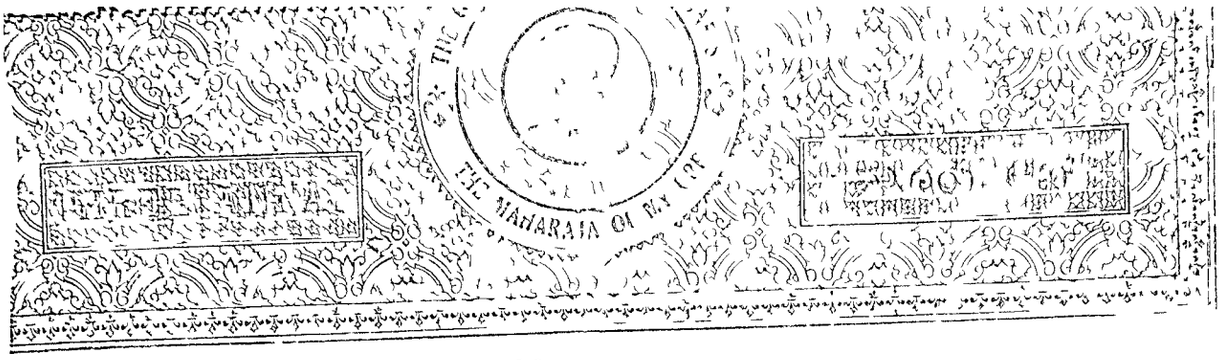

to the suit land. That was a contention not raised in the pleadings and such evidence as is available on the record clearly establishes that as successor of Agasara Mudalagiri the plaintiff is entitled to the land. In fact, Mudalagiri's brother, P.W.9, who would in the usual course have succeeded to the property as Mudalagiri's heir has clearly stated that 2 years prior to his death Mudalagiri made a bequest of the property to the plaintiff. There is no reason why his evidence should not be accepted to be true. There is therefore no substance in that contention.

In the result, the decree of the learned Subordinate Judge must be affirmed and the appeal dismissed with costs.

"TRANSCRIPT"

Sd/. T. Shamiengar,
Registrar.

"TRUE COPY"

Deputy Registrar.

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PROCEEDINGS OF THE GOVERNMENT OF
H.H. THE MAHARAJA OF MYSORE.
***

Muzrai Appeal No.12 of 1937-38.

Appellants:

1. B.P. Bhujabalaiya
2. Chikkaveeregowda
3. Lakke Gowda
4. Rangegowda S/o Nanjegowda
5. Rangegowda " Ramegowda
6. Ramegowda " Govindagowda
7. Yennappagowda " Manjegowda
8. Ramegowda " Yellegowda
9. Lakkappa alias Kempegowda.

Vs

Respondent:-

Sri Swamigalu of Sri Jain Mutt at Sravanabelogala village, Channarayapatna Taluk, Hassan District, by his Agent.

ORDER NO.R. 8012 - 3 /Muz.151-37-19.

Dated, Bangalore, 19th March ~~Feby~~: 1943.

This is an appeal against the order of the Muzrai Commissioner conveyed in his endorsement No.App.15/37-38 dated 30th October 1937 to the appellants declining to recognise the appellants as kadim tenants of the undermentioned Survey Numbers of Sravanabelagola village in the khate of Sravanabelagola Mutt:-

S.Nos.249, 250, 252-3, ~~256-9~~ 255-9,
261, 265, 267-9.

2. The facts of the case are briefly as follows:-

Four Sarvamanya villages, viz., Hosahalli village, Sravanabelagola village, Uttenahalli village and Kabbalu village, measuring a total extent of 2967 acres and 1 gunta and bearing an assessment of Rs.2683-5-0 have been endowed for the upkeep of the Mutt and 32 temples, and out of these a total extent of 178 acres 31 guntas of land bearing an assessment of Rs.592-4-0 as noted in the margin* is in the khate of Sri Mutt. The sarvamanya villages were taken under Government management from 19-6-1874 as per Chief Commissioner's order No.2080-29 dated 19th June 1874. The lands in the khate of the Mutt seem however to have continued to be in the possession and enjoyment of the Mutt, and in their Order No.355/23 dated 17th April 1882 Government directed that the Mutt should in future pay the kandayam on these lands. The Swamigalu as the Trustee of the Mutt proposed that the lands in the khate of the Mutt might be taken possession of by Government and managed along

*

Village	A.G.	Assessment		
Sravanabelagola	177-38	588	4	0
Dadighatta	0-20	2	4	0
Kumbenahalli	0-13	1	12	0
	178-31	592	4	0

with other properties, the income realised being made available for the purpose of charity, and accordingly the Muzrai Commissioner directed, in his order No.C.1064/34-35 dated 20th October 1936, that the properties might be leased out to the best advantage of the institution. Action was accordingly taken to lease out the lands in question. The petitioners, who felt aggreived by this order, presented a petition to the Muzrai Commissioner on 23rd November 1936, alleging that they were kadim tenants and that in the course of the Record of Rights enquiry, the Amildar had conceded this, and directed the insertion of their names in columns 14 and 15 of the Preliminary Record and that the Swamigalu had appealed against this order to the Sub Division Officer and that in the meantime the lands were proposed to be leased and that, if this was done, it would cause them loss. The Muzrai Commissioner issued a stay order, and called for a report. But subsequently, on the report of the Deputy Commissioner that the Amildar's order was in appeal before the Sub Division Officer, the stay order was withdrawn, and the question of staying further proceedings was left to the Deputy Commissioner, and the petitioners were also informed accordingly.

3 The Sub Division Officer passed orders on 5th June 1937 allowing the appeal of the Swamigalu, and held that the Appellants (before Government) could not set up a claim to be the full owners of the land or to have acquired rights adverse to the Mutt, and the Mutt should be regarded as the 'occupant' and that its name should be entered in the Final Record. He observed that the alternative claim of kadim tenancy was not the issue in this case and that this should form the subject matter of a separate enquiry, and the rights should be established in a proper Court of Law. He further observed that in the absence of satisfactory evidence the presumption is against the permanent tenancy, particularly as this was a case of lands endowed to a religious institution. A revision application having been filed against this decision before the Deputy Commissioner, the latter agreeing with the Sub Division Officer, dismissed the petition.

4 The Appellants preferred an appeal to the Muzrai Commissioner, who dismissed the petition on the ground that under the Record of Rights Act, no appeal lay under the statute from the orders duly passed after enquiry by the Sub Division Officer and the Deputy Commissioner, and on the further ground that the Government had decided in their order No.1726-72

dated 6th June 1889 that kadim tenancy rights could not be conferred on these ryots who were merely tenants-at-will. He further observed that in the course of enquiry, it has been held on appeal that the lands belong to the Mutt. The Appellants have appealed to Government against this order. Their contentions are as follows:-

(i) That orders have been passed ex parte without an enquiry or a hearing, although the case was remanded to the Deputy Commissioner by the Muzrai Commissioner and that the offer of the Appellant to adduce materials in support of their case has been rejected.

(ii) The appellants have been in possession as kadim or permanent tenants from time immemorial.

(iii) The orders under the Record of Rights Act cannot constitute a basis for a decision on the points involved, as they should form a subject of separate enquiry and proceedings.

(iv) The G.O. of 1889 related to some other properties situated near Hosahalli, and has not been properly construed, and has no bearing on the lands in question.

(v) The Appellant's claim is supported by documents of 17-4-1803, i.e., long anterior to the grant of inam which was in 1830.

(VI) Although the G.O. was passed in 1889, for nearly 50 years, the appellants' rights of kadim or permanent tenancy have not been questioned, but on the other hand, kandayam has been collected on this basis.

5 The Muzrai Commissioner, in his endorsement to the appellants, dated 30-10-1937, stated that G.O. No.1726-72 dated 6th June 1889 has definitely declined to confer kadim tenancy rights, and ordered that the Appellants were all tenants-at-will. He has further stated in the Record of Rights enquiry it has been held on appeal that the lands belong to the Mutt and that, as under the rules no appeal lies, the Deputy Commissioner's order confirming the sales is in order.

6 The Appellants contended that the G.O. of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppalu, and that even the Record of Rights left the question of kadim tenancy open (vide Sub Division Officer's order) and that the Appellants have been in possession of the lands even long before they were granted to the Mutt as inam and that they had not been afforded opportunities to present their case properly and to adduce evidence before the authorities in support of their case.

7 As the records did not show that such an enquiry had been made, a stay order was issued, and after a hearing on the 9th

February 1939, a further enquiry was directed to be held, affording the Appellants an opportunity to adduce such evidence as they might choose to let in and to submit a report together with findings on the following points:-

(a) whether the order of the 6th June 1889 applies to the lands in question, and

(b) whether the appellants are permanent or kadim tenants.

8. The Sub Division Officer, Hassan Sub Division, has held an enquiry. Fourteen witnesses have been examined on behalf of the Appellants and several exhibits have been filed by both parties The Sub Division Officer has exhaustively dealt with the case and has held that the order of 1889 holds good in respect of the lands in question, as their case is similar to that of the lands referred to in that order and as the said order does not refer to any particular village. In regard to the second point he is of the opinion that the Appellants cannot claim kadim or permanent tenancy rights over the lands in dispute, and as such they are only ordinary tenants with a right to cultivate the lands.

9. As regards the alienations and other transactions connected with the Survey Numbers in question, the Sub Division Officer states that they cannot bind the Mutt or the Swami who was not a party to any one of them.

10. The Deputy Commissioner and the

Muzrai Commissioner agree with the findings of the Sub Division Officer.

11 After a number of adjournments granted at the request of both parties for effecting a compromise, the case was heard at length on the 17th of July 1942. The Counsel on both sides have cited a number of authorities and argued on the basis of the evidence and attacked or supported the findings of the Sub Division Officer, according to their interest.

12. The Appellants, who are only 9 persons owning 18 acres of land, contend that the order of 1889 does not preclude them, that Exhibit 4 (Sagiuvali Chit), relied upon by them, was issued in their favour in the year Rudhirodgari, answering to 1803, i.e., 27 years earlier than the grant of the villages to the Mutt, that in any case, their position as tenants for over 12 years prior to the passing of the Religious and Charitable ~~Endowments~~ Institutions Act, grants them an absolute title to hold the lands as tenants as against the Inamdar, and that this is not covered by Chapter IV of the Religious and Charitable ~~Endowments~~ Institutions Act, but only by Chapter II, in view of the statement in the Sannad creating the inam that it is granted to the Swami for the maintenance of certain temples and worship therein and not to the Swami as Head of the Mutt, for the general expenses of the Mutt, that Exhibit 25A, being Sale Proceedings by public authority for recovery of rent, affords independent proof of the permanency of their tenancy rights, that as there have been severa

improvements effected to the land and rent has been paid for a considerable period, explanations 3 and 4 of Section 79 of the Mysore Land Revenue Code should be applied in their favour, and that explanation 2 is also in their favour as the tenants have transferred the lands to others and the alienees have paid rent to the Inamdar, who had thus constructive notice, and lastly that in any case, Section 30 of the Religious and Charitable ~~Endowments~~ Institutions Act does not apply to this case as there is no evidence of alienation by the Head of the Mutt but the Saguvali Chit originating the lease is from the Amildar.

3. The Counsel for the Mutt does not contest the point that the order of 1889 does not apply to the lands now in question. But he urges that the Saguvali Chit (Exhibit 4) is not authoritative and proved, that neither during the Inam Settlement nor when Survey Settlement was introduced into the village in 1885, have the tenants got their permanent rights recognised, that on the other hand, the lands are entered in the khate of the Mutt, and lastly, that the case falls under Chapter IV, and not under Chapter II, of the Religious and Charitable ~~Endowments~~ Institutions Act and that the recital in the grant of the object, viz., the maintenance of the temples, does not take away from its essential character, namely, the grant to the Head of the Mutt. On this account, the Counsel relies on 18, Mysore Law Journal, page 429 (Yellappa and others Vs. Thippa Setty Mutt) and 19, Mysore Law Journal, page 86 (Thirupathi Bhattachar and others Vs. Venkatarayappa and another) and says that the Appellants have only

only the rights of an ordinary tenant-at-will and that twelve years' adverse possession against one Swami does not avail against his successor, and that every successive Swami of a Mutt can repudiate a lease within twelve years of his own accession, that the present Swami was installed in 1928 and he repudiated the tenancy in 1930.

14. The decision of this case depends, firstly, on the appreciation of the documents and the facts and secondly, on the law applicable to it. On the point whether it is an inam granted to the Mutt, or to a Temple, it has to be stated that ordinarily the Mutts are identified with the conduct of worship to certain tutelary deity, and grants to the Heads of Mutts are given in the name of such tutelary deities and appurtenant institutions, and not to the Swami as such; and therefore ~~I am of opinion~~ that Chapter IV of the Religious and Charitable ~~Endowments~~ State Tutelage Act ~~applies~~ has application to this case, and not Chapter II. As regards the date of tenancy, Rudhirodgari recurs every sixty years in the Hindu cycle of years. As the Sub Division Officer remarks, Rudhirodgari would mean 1803 or 1863. The nature of the document and its appearance does not rule out the possibility of its issue in 1863. Neither party has let in collateral evidence from which the exact year could be determined. The Mutt is therefore entitled to the benefit that

the Rudhirodgari referred to is 1863, that is, a period subsequent to the grant of the village to the Mutt. The fact however remains that the grant of the lands is by an Amildar, according to the document. The contents of that document have not been repudiated by any valid evidence. The document bears on it sufficient external characteristics to justify the presumption that it is true in regard to its contents, in the absence of evidence to the contrary. The series of receipts produced and all other documents now show also that the tenancy is a long-standing one.

15 As regards the applicability of the order of 1889 to these lands, it is necessary to refer to the nature of that order. That order arose from the contest by certain parties that certain lands in their enjoyment should be confirmed in their own right, or that the lands might be given over to them at Survey assessment. These lands were, according to the Deputy Commissioner's report dated 22nd February 1889, in the Sarvamanya villages belonging to the Mutt, which were settled in the year 1886-87. The Deputy Commissioner reports that in 1887-88 the Settlement was enforced as regards all but the lands in dispute. This would lead to the inference that the present Appellants, who are different from the petitioners then referred to, acquiesced in the entry in the Survey and

and Settlement and did not press their case, if they had any. The Government Order on the petition, however, first rejected the claim of the petitioners to kadim tenancy, and then proceeded, in paragraph 4, to lay down a general proposition:-

> "The Government has no right to create new occupancy rights by conversion of Batayi into Nagadiyat in an Inam village under Government administration on trust, unless it can be shown that such conversion is for the benefit of the Inamdar. In the present case it is abundantly clear that the Mutt will lose by the conversion and the Government accordingly directs that the lands in question be registered in the khate of the Mutt, and leased to the present cultivators on an annual tenancy on the rent hitherto usual".

4. The law relating to alienations by Heads of Mutts is clearly laid down in 18 Mysore Law Journal, 429 (Yellappa and others Vs. Thippa Setti Mutt). So long as it is not proved that the tenancy did not arise prior to the grant of the village to the Mutt, this proposition of law must prevail. But in the present instance, as has already been indicated, the persons in possession of the lands and their predecessors in title have been in enjoyment for a considerable period. Even after Survey Settlement, their rent has remained unchanged for long. It is admitted that improvements have been effected. There is evidence of transfers of tenancy which have not been questioned. The action of public authorities in putting up the tenancy

tenancy rights to sale affords also evidence of the public repute locally, even though the Mutt itself was not a direct party to such proceedings. Lastly, the law on the subject has been changed subsequent to the Government Order of 1889 by the Mysore Religious and Charitable ~~Endowments~~ Institutions Act of 1927, Section 30 of which makes specific provision recognizing alienations which are made with the previous sanction of Government. This provision did not exist in the Mysore Muzrai Regulation VJ of 1913. This new provision of law was purposely designed to cover hard cases like the present one. The case of Vidyavaridhi Vs. Balaswami Iyer, -- 44 Madras, 831, -- followed in Yellappa and others Vs. Thippa Setti Mutt, was prior to the provision of law enacted in 1927.

17. In ~~view of~~ the above circumstances, equity demands that in the present case, the persons in possession as tenants for over half a century now should not be disturbed, nor should they get a title in law which they did not possess and which they cannot possess without sanction of Government, except on payment of proper consideration to the Mutt. ~~I am therefore of opinion~~ ~~that they~~ ~~that Government should confer~~ according direction should be conferred permanent tenancy rights on these Appellants, on payment of a reasonable upset price to the Mutt, to be fixed by the Deputy-Commissioner and reported to Government for sanction, having

the lands

lands and also the nature of ~~the~~ improvements that have been effected in respect of each land by the tenants.

Gen Secy to Govt

Jr – The Mysore Commissioner in Mysore with the Connected Records

R.8014 / R8015 } D/19-3-43

" ~~Deputy~~ Commissioner, Hassan District

Copy to the ~~Council for~~ the Appellants through their Counsel

" Respondent ~~through his~~.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

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9. ... alias ...
reading
at ... Channarayapatna Taluk.

V.

Respondent:-

... Wodigalde of ... Jain ... at ravanabelogala village, Channarayapatna Taluk, Hassan District, by his Agent.

Subject:- Regarding the Kadim tenancy rights claimed by Bhujabalia and others in respect of certain lands belonging to Sri Gomateshwara of Sravanabelagola.

O. R.8012-3/mmy, 151-37-19

Dated, Bangalore, 19th March 1943.

This is an appeal against the order of the Inam Commissioner conveyed in his endorsement O.Misc.15/37-38 dated 30th October 1937 to the appellants declining to recognise the appellants as kadim tenants of the undermentioned Survey Numbers of Sravanabelagola village in the Khata of Sravanabelagola Mutt:-

S.No. 248, 250, 252-3, 255-9, 261, 265, 267-9.

2. The facts of the case are briefly as follows:-

Four Sarvamanya villages, viz., Hosahalli village, Sravanabelagola village, Kenchanahalli village and Kadalu village, measuring total extent of 2567 acres and 1 gunta and bearing an assessment of Rs.583-5-0 have been endowed for the upkeep of the Mutt and 32 temples, and a total extent of 170 acres 31 guntas of land bearing an assessment of Rs.552-4-0 as noted in the margin in the Khata of the Mutt. The Sarvamanya villages were taken under Government management f

Village.	A. G.	Assessment.		
Sravanabelagola.	167-38	538	4	0
Kadalu alias Kadabenahalli	0-28	2	4	0
	0-13	1	12	0
	167-31	552	4	0

[illegible] have obtained [illegible] possession and enjoyment of the same, as in [illegible] dated 17th April 1956 Government directed that the Mutt should be given the option to take the [illegible] as the price of the Mutt proposed that the land should be that of the Mutt might be taken possession of by Government and managed along with other properties, the income realised being made available for the purpose of charity, and accordingly the Amildar in his order No. .1064/34-35 dated 30th October 1956, that the properties might be leased out to the best advantage of the institution. Action was accordingly taken to lease out the lands in question. The petitioners, who felt aggrieved by this order, presented a petition to the Huzrai Commissioner on 23rd November 1956, alleging that they were kadim tenants and that in the course of the record of rights enquiry, the Amildar had conceded this, and directed the insertion of their names in columns 14 and 15 of the Preliminary Record and that the Swamigalu had appealed against this order to the Sub Division Officer and that in the meantime the lands were proposed to be leased and that if this was done, it would cause them loss. The Huzrai Commissioner issued a stay order, and called for a report. But subsequently, on the report of the Deputy Commissioner that the Amildar's order was in appeal before the Sub Division Officer, the stay order was withdrawn and the question of staying further proceedings was left to the Deputy Commissioner, and the petitioners were also informed accordingly.

3. The Sub Division Officer passed orders on 5th June 1957 allowing the appeal of the Swamigalu, and held that the Appellants (before Government) could not set up a claim to be the full owners of the land or to have acquired rights adverse to the Mutt, and the Mutt should be regarded as the 'occupant' and that its name should be entered in the Final Record. He observed that the alternative claim of kadim tenancy was not the issue in this case and that this should form the subject matter of a separate enquiry, and the rights should be established in a proper Court of Law. He further observed that in the absence of satisfactory evidence the presumption is against the

the [illegible], particularly, in the case of lands endowed for religious institutions. A review application having been filed against the decision of the Deputy Commissioner, the latter agreeing with the Sub Divisional Officer, dismissed the petition.

4. The appellants preferred an appeal to the Uzrai Commissioner, who dismissed the petition on the ground that under the Record of Rights Act, no appeal lay under the statute from the orders duly passed after enquiry by the Sub Divisional Officer and the Deputy Commissioner, and on the further ground that the Government had decided in their order No.1726-72 dated 6th June 1889 that kadim tenancy rights could not be conferred on these ryots who were merely tenants-at-will. He further observed that in the course of enquiry it has been held on appeal that the lands belong to the Mutt. The Appellants have appealed to Government against this order. Their contentions are as follows:-

(i) That orders have been passed exparte without an enquiry or a hearing, although the case was remanded to the Deputy Commissioner by the Uzrai Commissioner and that the offer of the Appellant to adduce materials in support of their case has been rejected.

(ii) The Appellants have been in possession as kadim or permanent tenants from time immemorial.

(iii) The orders under the Record of Rights Act cannot constitute a basis for a decision on the points involved, as they should form a subject of separate enquiry and proceedings.

(iv) The Government Order of 1889 related to some other properties situated near Nosahalli, and has not been properly construed, and has no bearing on the lands in question.

(v) The Appellants' claim is supported by documents of 17th April 1803, i.e., long anterior to the grant of inam which was in 1830.

(vi) Although the Government Order was passed in 1889, for nearly 50 years, the appellants' rights of kadim or permanent

tenancy

tenancy have not been questioned, but on the other hand, Kandayam has been collected on tal basis.

5. The Huzrat Commissioner, in his endorsement to the appellants dated 30th October 1937, stated that Government Order No.1726-72 dated 6th June 1889 has definitely declined to confer kadim tenancy rights, and ordered that the Appellants were all tenants-at-will. He has further stated in the record of rights enquiry that it has been held on appeal that the lands belong to the Mutt and that, as under the rules no appeal lies, the Deputy Commissioner's order confirming the sales is in order.

6. The Appellants contended that the Government Order of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppalu, and that even the Record of Rights left the question of Kadim tenancy open (vide Sub Division Officer's order) and that the Appellants have been in possession of the lands even long before they were granted to the Mutt as inam and that they had not been afforded opportunities to present their case properly and to adduce evidence before the authorities in support of their case.

7. As the records did not show that such an enquiry had been made, a stay order was issued, and on the 9th February 1938, a further enquiry was directed to be held, affording the appellants an opportunity to adduce such evidence as they might choose to lead and to submit a report together with findings on the following points:-

(a) whether the order of the 6th June 1889 applies to the lands in question, and

(b) whether the appellants are permanent or kadim tenants

8. The Sub Division Officer, Vassan Sub Division, has held an enquiry and court witnesses have been examined on behalf of the Appellants and several exhibits have been filed by both parties. The Sub Division Officer has exhaustively dealt with the case and has held that the order of 1889 holds good in respect of the lands in question, as their case is similar to that of the lands referred to in that order and as the said order does not refer to any particular village. In regard to the second point he is of the opinion that the Appellants cannot claim kadim or permanent tenancy rights over the lands in dispute, and as such they are only ordinary tenants with a right to cultivate the lands.

9. As regards the alienations and other transactions connected with the Survey Numbers in question, the Sub Division Officer states that they cannot bind the Mutt or the Swami who was not a party to any one of them.

10. The Deputy Commissioner and the Huzrai Commissioner agree with the findings of the Sub Division Officer.

11. After a number of adjournments granted at the request of both parties for effecting a compromise, the case was heard at length on the 17th of July 1942. The Counsel on both sides have cited a number of authorities and argued on the basis of the evidence and attacked or supported the findings of the Sub Division Officer, according to their interest.

interest.

12. The Appellants, who are only [illegible] of [illegible] land, contend that the [illegible] that Exhibit 4 (Saguvali Chit), relied upon by them, was issued in their favour in the year Subhakrutu, corresponding to 1800, i.e., 87 years earlier than the grant of the villages to the Mutt, that in any case, their position as tenants for over 12 years prior to the passing of the Religious and Charitable Institutions Act, grants them an absolute title to hold the lands as tenants as against the Inamdar, and that this is not covered by Chapter IV of the Religious and Charitable Institutions Act, but only by Chapter II, in view of the stand in the Samvad creating the inam that it is granted to the Swami for the maintenance of certain temples and worship therein and not to the Swami as the Head of the Mutt, for the general expenses of the Mutt, that Ex. 25A, being sale proceedings by public authority for recovery of rent, affords independent proof of the permanency of their tenancy rights, that as there have been several improvements effected to the land and rent has been paid for a considerable period, explanations 3 and 4 of Section 70 of the Mysore Land Revenue Code should be ~~appli~~ applied in their favour, and that explanation 2 is also in their favour as the tenants have transferred the lands to others and the alienees have paid rent to the Inamdar, who had thus constructive notice, and lastly that in any case, Section 30 of the Religious and Charitable Institutions Act does not apply to this case as there is no evidence of alienation by the Head of the Mutt but the Saguvali Chit originating the lease is from the Amildar.

13. The Counsel for the Mutt does not contest the point ~~the~~ that the order of 1889 does not apply to the lands in that question. But he urges that the Saguvali Chit (Ex. 4 is not authoritative and proved, that neither during the Inam Settlement nor when Survey Settlement was introduc

introduced into the Village in 1886, have the tenants got their permanent rights [illegible], that the [illegible] lands are entered in the name of the Mutt, and lastly that the case falls under Chapter III, and not under Chapter II, of the Hindu Religious and Charitable Institutions and that the recital in the grant of the object, viz., the worship of the Deities, does not take away from its essential character, namely, the grant to the Head of the Mutt. On this account, the Counsel relies on 16, Mysore Law Journal, page 439 (Yellappa and others Vs. Thippa Setty Mutt) and 19, Mysore Law Journal, page 80 (Thirupathi Bhattachar and others Vs. Venkatarayappa and another) and says that the Appellants have only the rights of an ordinary tenant-at-will and that 12 years' adverse possession against one Swami does not avail against his successor, and that at every successive Swami of a Mutt can repudiate a lease within 12 years of his own accession, that the present Swami was installed in 1928 and he repudiated the tenancy in 1930.

4. The decision of this case depends, firstly, on the appreciation of the documents and the facts and secondly, on the law applicable to it. On the point whether it is an inam granted to the Mutt, or to a Temple, it has to be stated that ordinarily the Mutts are identified with the conduct of worship to certain tutelary deity, and grants to the Heads of Mutts are given in the name of such tutelary deities and appurtenant institutions, and not to the Swami as such; and therefore Chapter IV of the Religious and Charitable Institutions Act applies to this case, and not Chapter II. As regards the date of tenancy, Rudhirogari recurs every 60 years in the Hindu cycle of years and, as the Sub Division Officer remarks, Rudhirodgari would mean 1803 or 1863. The nature of the document and its appearance does not rule out the possibility of its issue in 1863. Neither party has let in collateral evidence from which the exact year could be determined. The Mutt is therefore entitled to the benefit

[illegible] subsequent to the grant of the village to the Mutt. The fact however remains that the grant of the lands is by the Huzildar according to the document. The contents of that document have not been repudiated by any valid evidence. The document bears on it sufficient external characteristics to justify the presumption that it is true in regard to its contents, in the absence of evidence to the contrary. The series of receipts produced and all other documents show also that the tenancy is a long-standing one.

15. As regards the applicability of the order of 1889 to these lands, it is necessary to refer to the nature of that order. That order arose from the contest by certain parties that certain lands in their enjoyment should be confirmed in their own right, or that the lands might be given over to them at Survey assessment. These lands were, according to the Deputy Commissioner's report dated the 22nd February 18 in the Sarvamanya villages belonging to the Mutt, which were settled in the year 1886-87. The Deputy Commissioner reports that in 1887-88 the Settlement was enforced as regards all but the lands in dispute. This would lead to the inference that the present Appellants, who are different from the petitioners then referred to, acquiesced in the Survey and Settlement and did not press their case, if they had any. The Government Order on the petition, however, first rejected the claim of the petitioners to Kadim tenure and then proceeded, in paragraph 4, to lay down a general proposition:-

" The Government has no right to create new occupancy rights by conversion of Batayi into Nagadiyat in an Inam Village under Government administration on trust, unless it can be shown that such conversion is for the benefit of the Inamdar. In the present case it is abundantly clear that the Mutt will lose by the conversion and the Government accordingly directs that the lands in question be registe

registered in the Chits of the Mutt, and leased to the present cultivators on annual rent, on the rent hitherto usual."

16. The law relating to alienations by Heads of Mutts is clearly laid down in 18, Mysore Law Journal, 402 (Yellappa and others Vs. Thippa Chetti Mutt). So long as it is not proved that the tenancy did not arise prior to the grant of the Village to the Mutt, this proposition of law must prevail. But in the present instance, as has already been indicated, the persons in possession of the lands and their predecessors in title have been in enjoyment for a considerable period. Even after Survey Settlement, their rent has remained unchanged for long. It is admitted that improvements have been effected. There is evidence of transfers of tenancy which have not been questioned. The action of public authorities in putting up the tenancy rights to sale affords also evidence of the public repute locally, even though the Mutt itself was not a direct party to such proceedings. Lastly, the law on the subject has been changed subsequent to the Government Order of 1889 by the Mysore Religious and Charitable Institutions Act of 1927, Section 30 of which makes specific provision recognising alienations which are made with the previous sanction of Government. This provision did not exist in the Mysore Muzrai Regulation VI of 1913. This new provision of law was purposely designed to cover hard cases like the present one. The case of Vidyavaridhi Vs. Balaswami Iyer, - 44 Madras, 831, - followed in Yellappa and others Vs. Thippa Setti Mutt, was prior to the provision of law enacted in 1927.

17. In the above circumstances, equity demands that in the present case, the persons in possession as tenants for over half a century now should not be disturbed, nor should they get a title in law which they did not possess and which they cannot possess without sanction of Government, except on payment of proper consideration to the Mutt. Government accord

accordingly direct that permanent tenancy rights should be conferred on these Appellants, on payment of a reasonable upset price to the Mutt, to be fixed by the Deputy Commissioner and reported to Government for sanction, having regard to the present value of the lands and also to the nature of improvements that have been effected in respect of each land by the tenants.

R.H. Davies

For Secretary to Government,
General Department

To

The Muzrai Commissioner in Mysore, with connected records,
The Deputy Commissioner, Hassan District,

Pett.

Copy to the Appellants.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O. No. R 8012-3—Muz. 151-37-19, dated 19th March 1943.

Muzrai Appeal.

Issues orders on the ——'No. 12 of 1937-38) preferred by Bhujabaliah and others of Sravanabelagola, Channarayapatna Taluk, regarding the Kadim tenancy rights in respect of certain lands belonging to Sri Jaina Mutt at the place.

READ—

Muzrai Appeal No. 12 of 1937-38.

Appellants.

1. B. P. Bhujabalaiya
2. Chickveeregowda
3. Lakke Gowda
4. Rangegowda, son of Nanjegowda
5. Rangegowda, son of Ramegowda
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9. Lakkappa *alias* Kempegowda

All residing at and near Sravanabelagola, Channarayapatna Taluk.

Vs.

Respondent.

Sri Swamigalu of Sri Jaina Mutt at Sravanabelagola village, Channarayapatna Taluk, Hassan District, by his Agent.

SUBJECT.

Regarding the Kadim tenancy rights claimed by Bhujabaliah and others in respect of certain lands belonging to Sri Jaina Mutt at Sravanabelagola.

ORDER No. R. 8012-3—MUZ. 151-37-19, DATED BANGALORE, THE 19TH MARCH 1943.

This is an appeal against the order of the Muzrai Commissioner conveyed in his endorsement No. App. 15—37-38, dated 30th October 1937 to the appellants declining to recognise the appellants as kadim tenants of the undermentioned Survey Numbers of Sravanabelagola Village in the Khate of Sravanabelagola Mutt:—

S. Nos. 249, 250, 252-3, 255-9, 261, 265 and 267-9.

The facts of the case are briefly as follows :—

2. Four Sarvamanya villages, *viz.*, Hosahalli Village, Sravanabelagola Village, Uttenahalli Village and Kabbalu Village, measuring a total extent of 2,967 acres and 1 gunta and bearing an assessment of Rs. 2,683-5-0 have been endowed for the up-keep of the Mutt and 32 temples, and a total extent of 178 acres and 31 guntas of land bearing an assessment of Rs. 592-4-0 as noted in the margin is in the khate of Sri Mutt. The Sarvamanya villages were taken under Government management from 19th June 1874 as per Chief Commissioner's Order No. 2080-29, dated 19th June 1874. The lands in the khate of the Mutt seem, however, to have continued to be in the possession and enjoyment of the Mutt, and in Order No. 355—23, dated 17th April 1882, Government directed that the Mutt should in future pay the kandayam on these lands. The Swamigalu as the Trustee of the Mutt proposed that the lands in the khate of the Mutt might be taken possession of by Government and managed along with other properties, the income realised being made available for the purpose

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of charity, and accordingly the Muzrai Commissioner directed in his Order No. C. 1064—34-35, dated 20th October 1936, that the properties might be leased out to the best advantage of the institution. Action was accordingly taken to lease out the lands in question. The petitioners, who felt aggrieved by this order, presented a petition to the Muzrai Commissioner on 23rd November 1936, alleging that they were kadim tenants and that in the course of the Record of Rights enquiry, the Amildar had conceded this, and directed the insertion of their names in columns 14 and 15 of the Preliminary Record and that the Swamigalu had appealed against this order to the Sub-Division Officer and that in the meantime the lands were proposed to be leased and that if this was done, it would cause them loss. The Muzrai Commissioner issued a stay order, and called for a report. But subsequently, on the report of the Deputy Commissioner that the Amildar's order was in appeal before the Sub-Division Officer, the stay order was withdrawn and the question of staying further proceedings was left to the Deputy Commissioner, and the petitioners were also informed accordingly.

3. The Sub-Division Officer passed orders on 5th June 1937 allowing the appeal of the Swamigalu, and held that the Appellants (before Government) could not set up a claim to be the full owners of the land or to have acquired rights adverse to the Mutt, and the Mutt should be regarded as the 'occupant' and that its name should be entered in the Final Record. He observed that the alternative claim of kadim tenancy was not the issue in this case and that this should form the subject matter of a separate enquiry, and the rights should be established in a proper Court of Law. He further observed that in the absence of satisfactory evidence the presumption is against the permanent tenancy, particularly as this was a case of lands endowed to a religious institution. A revision application having been filed against this decision before the Deputy Commissioner, the latter agreeing with the Sub-Division Officer, dismissed the petition.

4. The appellants preferred an appeal to the Muzrai Commissioner, who dismissed the petition on the ground that under the Record of Rights Act, no appeal lay under the statute from the orders duly passed after enquiry by the Sub-Division Officer and the Deputy Commissioner, and on the further ground that the Government had decided in their Order No. 1726-72, dated 6th June 1889 that kadim tenancy rights could not be conferred on these raiyats who were merely tenants-at-will. He further observed that in the course of enquiry, it has been held on appeal that the lands belong to the Mutt. The Appellants have appealed to Government against this order. Their contentions are as follows :—

(i) That orders have been passed *ex parte* without an enquiry or a hearing, although the case was remanded to the Deputy Commissioner by the Muzrai Commissioner and that the offer of the Appellant to adduce materials in support of their case has been rejected.

(ii) The Appellants have been in possession as kadim or permanent tenants from time immemorial.

(iii) The orders under the Record of Rights Act cannot constitute a basis for a decision on the points involved, as they should form a subject of separate enquiry and proceedings.

(iv) The Government Order of 1889 related to some other properties situated near Hosahalli, and has not been properly construed, and has no bearing on the lands in question.

(v) The Appellants' claim is supported by documents of 17th April 1803, *i.e.*, long anterior to the grant of inam which was in 1830.

(vi) Although the Government Order was passed in 1889, for nearly 50 years, the Appellants' rights of kadim or permanent tenancy have not been questioned, but on the other hand, kandayam has been collected on this basis.

5. The Muzrai Commissioner, in his endorsement to the Appellants dated 30th October 1937, stated that Government Order No. 1726-72, dated 6th June 1889 has definitely declined to confer kadim tenancy rights, and ordered that the Appellants were all tenants-at-will. He has further stated in the Record of Rights enquiry, that it has been held on appeal that the lands belong to the Mutt and that, as under the rules no appeal lies, the Deputy Commissioner's order confirming the sales is in order.

6. The Appellants contended that the Government Order of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppalu, and that even the

Record of Rights left the question of Kadim tenancy open (*vide* Sub-Division Officer's order) and that the Appellants have been in possession of the lands even long before they were granted to the Mutt as inam and that they had not been afforded opportunities to present their case properly and to adduce evidence before the authorities in support of their case.

7. As the records did not show that such an enquiry had been made, a stay order was issued, and after a hearing on the 9th February 1939, a further enquiry was directed to be held, affording the Appellants an opportunity to adduce such evidence as they might choose to let in and to submit a report together with findings on the following points :—

(*a*) whether the order of the 6th June 1889 applies to the lands in question, and

(*b*) whether the appellants are permanent or kadim tenants.

8. The Sub-Division Officer, Hassan Sub-Division, has held an enquiry. Fourteen witnesses have been examined on behalf of the Appellants and several exhibits have been filed by both parties. The Sub-Division Officer has exhaustively dealt with the case and has held that the order of 1889 holds good in respect of the lands in question, as their case is similar to that of lands referred to in that order and as the said order does not refer to any particular village. In regard to the second point, he is of the opinion that the Appellants cannot claim kadim or permanent tenancy rights over the lands in dispute, and as such they are only ordinary tenants with a right to cultivate the lands.

9. As regards the alienations and other transactions connected with the Survey Numbers in question, the Sub-Division Officer states that they cannot bind the Mutt or the Swami who was not a party to any one of them.

10. The Deputy Commissioner and the Muzrai Commissioner agree with the findings of the Sub-Division Officer.

11. After a number of adjournments granted at the request of both parties for effecting a compromise, the case was heard at length on the 17th of July 1942. The Counsel on both sides have cited a number of authorities and argued on the basis of the evidence and attacked or supported the findings of the Sub-Division Officer, according to their interest.

12. The Appellants, who are only nine persons owning 18 acres of land, contend that the order of 1889 does not preclude them, that Exhibit 4 (Saguvali chit), relied upon by them, was issued in their favour in the year Rudhirodgari, answering to 1803, *i. e.*, 27 years earlier than the grant of the villages to the Mutt, that in any case, their position as tenants for over 12 years prior to the passing of the Religious and Charitable Institutions Act, grants them an absolute title to hold the lands as tenants as against the Inamdar, and that this is not covered by Chapter IV of Religious and Charitable Institutions Act, but only by Chapter II, in view of the statement in the Sannad creating the inam that it is granted to the Swami for the maintenance of certain temples and worship therein and not to the Swami as the Head of the Mutt for the general expenses of the Mutt, that Ex. 25A, being sale proceedings by public authority for recovery of rent, affords independent proof of the permanency of their tenancy rights, that as there have been several improvements effected to the land and rent has been paid for a considerable period, *Explanations* 3 and 4 of Section 79 of the Mysore Land Revenue Code should be applied in their favour, and that *Explanation* 2 is also in their favour as the tenants have transferred the lands to others and the alienees have paid rent to the Inamdar, who had thus constructive notice, and lastly that in any case, Section 30 of the Religious and Charitable Institutions Act does not apply to this case as there is no evidence of alienation by the Head of the Mutt but the Saguvali Chit originating the lease is from the Amildar.

13. The Counsel for the Mutt does not contest the point that the order of 1889 does not apply to the lands now in question. But he urges that the Saguvali Chit (Ex. 4) is not authoritative and proved, that neither during the Inam Settlement nor when Survey Settlement was introduced into the village in 1885, have the tenants got their permanent rights recognised, that on the other hand,

the lands are entered in the Khate of the Mutt, and lastly, that the case falls under Chapter IV, and not under Chapter II, of the Religious and Charitable Institutions Act and that the recital in the grant of the object, *viz.*, the maintenance of the temples, does not take away from its essential character, namely, the grant to the Head of the Mutt. On this account, the Counsel relies on 18, Mysore Law Journal, page 429 (Yellappa and others *vs.* Thippa Setty Mutt) and 19, Mysore Law Journal, page 86 (Thirupathi Bhattachar and others *vs* Venkatarayappa and another) and says that the Appellants have only the rights of an ordinary tenant-at-will and that 12 years' adverse possession against one Swami does not avail against his successor, and that every successive Swami of a Mutt can repudiate a lease within 12 years of his own accession, that the present Swami was installed in 1928 and he repudiated the tenancy in 1930.

14. The decision of this case depends, firstly, on the appreciation of the documents and the facts and secondly, on the law applicable to it. On the point whether it is an inam granted to the Mutt, or to a Temple, it has to be stated that ordinarily the Mutts are identified with the conduct of worship to certain tutelary deity, and grants to the Heads of Mutts are given in the name of such tutelary deities and appurtenant institutions, and not to the Swami as such, and therefore Chapter IV of the Religious and Charitable Institutions Act applies to this case, and not Chapter II. As regards the date of tenancy, Rudhirodgari recurs every 60 years in the Hindu cycle of years and, as the Sub-Division Officer remarks, Rudhirodgari would mean 1803 or 1863. The nature of the document and its appearance does not rule out the possibility of its issue in 1863. Neither party has let in collateral evidence from which the exact year could be determined. The Mutt is therefore entitled to the benefit that the Rudhirodgari referred to in 1863, that is, a period subsequent to the grant of the village to the Mutt. The fact, however, remains that the grant of the lands is by an Amildar, according to the document. The contents of that document have not been repudiated by any valid evidence. The document bears on it sufficient external characteristics to justify the presumption that it is true in regard to its contents, in the absence of evidence to the contrary The series of receipts produced and all other documents show also that the tenancy is a longstanding one.

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putting up the tenancy rights to sale affords also evidence of the public repute locally, even though the Mutt itself was not a direct party to such proceedings. Lastly, the law on the subject has been changed subsequent to the Government Order of 1889 by the Mysore Religious and Charitable Institutions Act of 1927, Section 30 of which makes specific provision recognising alienations which are made with the previous sanction of Government. This provision did not exist in the Mysore Muzrai Regulation VI of 1913. This new provision of law was purposely designed to cover hard cases like the present one. The case of Vidyavaridhi *vs.* Balaswami Iyer, 44 Madras, 831, followed in Yellappa and others *vs.* Thippa Setti Mutt, was prior to the provision of law enacted in 1927.

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N. MADHAVA RAO,
Secretary to Government,
General Department.

To—The Muzrai Commissioner in Mysore.
The Deputy Commissioner, Hassan District.

Exd.—B. G. S.

WD 6160 -GPB—302—27-5 43

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

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The facts of the case are briefly as follows :—

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5. The Muzrai Commissioner, in his endorsement to the Appellants dated 30th October 1937, stated that Government Order No. 1726-72, dated 6th June 1889 has definitely declined to confer kadim tenancy rights, and ordered that the Appellants were all tenants-at-will. He has further stated in the Record of Rights enquiry, that it has been held on appeal that the lands belong to the Mutt and that, as under the rules no appeal lies, the Deputy Commissioner's order confirming the sales is in order.

6. The Appellants contended that the Government Order of 1889 applies to Hosahalli lands, and not to lands in Nagaiyanakoppalu, and that even the

Record of Rights left the question of Kadim tenancy open (*vide* Sub-Division Officer's order) and that the Appellants have been in possession of the lands even long before they were granted to the Mutt as inam and that they had not been afforded opportunities to present their case properly and to adduce evidence before the authorities in support of their case.

7. As the records did not show that such an enquiry had been made, a stay order was issued, and after a hearing on the 9th February 1939, a further enquiry was directed to be held, affording the Appellants an opportunity to adduce such evidence as they might choose to let in and to submit a report together with findings on the following points :—

(*a*) whether the order of the 6th June 1889 applies to the lands in question, and

(*b*) whether the appellants are permanent or kadim tenants.

8. The Sub-Division Officer, Hassan Sub-Division, has held an enquiry. Fourteen witnesses have been examined on behalf of the Appellants and several exhibits have been filed by both parties. The Sub-Division Officer has exhaustively dealt with the case and has held that the order of 1889 holds good in respect of the lands in question, as their case is similar to that of lands referred to in that order and as the said order does not refer to any particular village. In regard to the second point, he is of the opinion that the Appellants cannot claim kadim or permanent tenancy rights over the lands in dispute, and as such they are only ordinary tenants with a right to cultivate the lands.

9. As regards the alienations and other transactions connected with the Survey Numbers in question, the Sub-Division Officer states that they cannot bind the Mutt or the Swami who was not a party to any one of them.

10. The Deputy Commissioner and the Muzrai Commissioner agree with the findings of the Sub-Division Officer.

11. After a number of adjournments granted at the request of both parties for effecting a compromise, the case was heard at length on the 17th of July 1942. The Counsel on both sides have cited a number of authorities and argued on the basis of the evidence and attacked or supported the findings of the Sub-Division Officer, according to their interest.

12. The Appellants, who are only nine persons owning 18 acres of land, contend that the order of 1889 does not preclude them, that Exhibit 4 (Saguvali chit), relied upon by them, was issued in their favour in the year Rudhirodgari, answering to 1803, *i. e.*, 27 years earlier than the grant of the villages to the Mutt, that in any case, their position as tenants for over 12 years prior to the passing of the Religious and Charitable Institutions Act, grants them an absolute title to hold the lands as tenants as against the Inamdar, and that this is not covered by Chapter IV of Religious and Charitable Institutions Act, but only by Chapter II, in view of the statement in the Sannad creating the inam that it is granted to the Swami for the maintenance of certain temples and worship therein and not to the Swami as the Head of the Mutt for the general expenses of the Mutt, that Ex. 25A, being sale proceedings by public authority for recovery of rent, affords independent proof of the permanency of their tenancy rights, that as there have been several improvements effected to the land and rent has been paid for a considerable period, *Explanations* 3 and 4 of Section 79 of the Mysore Land Revenue Code should be applied in their favour, and that *Explanation* 2 is also in their favour as the tenants have transferred the lands to others and the alienees have paid rent to the Inamdar, who had thus constructive notice, and lastly that in any case, Section 30 of the Religious and Charitable Institutions Act does not apply to this case as there is no evidence of alienation by the Head of the Mutt but the Saguvali Chit originating the lease is from the Amildar.

13. The Counsel for the Mutt does not contest the point that the order of 1889 does not apply to the lands now in question. But he urges that the Saguvali Chit (Ex. 4) is not authoritative and proved, that neither during the Inam Settlement nor when Survey Settlement was introduced into the village in 1885, have the tenants got their permanent rights recognised, that on the other hand,

the lands are entered in the Khate of the Mutt, and lastly, that the case falls under Chapter IV and not under Chapter II, of the Religious and Charitable Institutions Act and that the recital in the grant of the object, *viz.*, the maintenance of the temples, does not take away from its essential character, namely, the grant to the Head of the Mutt On this account, the Counsel relies on 18, Mysore Law Journal, page 429 (Yellappa and others *vs.* Thippa Setty Mutt) and 19, Mysore Law Journal, page 86 (Thirupathi Bhattachar and others *vs* Venkataraiyappa and another) and says that the Appellants have only the rights of an ordinary tenant-at-will and that 12 years' adverse possession against one Swami does not avail against his successor, and that every successive Swami of a Mutt can repudiate a lease within 12 years of his own accession, that the present Swami was installed in 1928 and he repudiated the tenancy in 1930.

14. The decision of this case depends, firstly, on the appreciation of the documents and the facts and secondly, on the law applicable to it On the point whether it is an inam granted to the Mutt, or to a Temple, it has to be stated that ordinarily the Mutts are identified with the conduct of worship to certain tutelary deity, and grants to the Heads of Mutts are given in the name of such tutelary deities and appurtenant institutions, and not to the Swami as such , and therefore Chapter IV of the Religious and Charitable Institutions Act applies to this case, and not Chapter II As regards the date of tenancy, Rudhirodgari recurs every 60 years in the Hindu cycle of years and, as the Sub-Division Officer remarks, Rudhirodgari would mean 1803 or 1863 The nature of the document and its appearance does not rule out the possibility of its issue in 1863. Neither party has let in collateral evidence from which the exact year could be determined. The Mutt is therefore entitled to the benefit that the Rudhirodgari referred to in 1863, that is, a period subsequent to the grant of the village to the Mutt The fact, however, remains that the grant of the lands is by an Amildar, according to the document The contents of that document have not been repudiated by any valid evidence The document bears on it sufficient external characteristics to justify the presumption that it is true in regard to its contents, in the absence of evidence to the contrary The series of receipts produced and all other documents show also that the tenancy is a longstanding one

15. As regards the applicability of the order of 1889 to these lands, it is necessary to refer to the nature of that order. That order arose from the contest by certain parties that certain lands in their enjoyment should be confirmed in their own right, or that the lands might be given over to them at Survey assessment. These lands were, according to the Deputy Commissioner's report dated the 22nd February 1889 in the Sarvamanya villages, belonging to the Mutt, which were settled in the year 1886-87 The Deputy Commissioner reports that in 1887-88 the settlement was enforced as regards all but the lands in dispute. This would lead to the inference that the present Appellants, who are different from the petitioners then referred to, acquiesced in the entry in the Survey and Settlement and did not press their case, if they had any The Government Order on the petition, however, first rejected the claim of the petitioners to Kadim tenancy, and then proceeded, in paragraph 4, to lay down a general proposition —

"The Government has no right to create new occupancy rights by conversion of Batayi into Nagadiyat in an Inam Village under Government administration on trust, unless it can be shown that such conversion is for the benefit of the Inamdar In the present case, it is abundantly clear that the Mutt will lose by the conversion and the Government accordingly directs that the lands in question be registered in the Khate of the Mutt, and leased to the present cultivators on an annual tenancy on the rent hitherto usual

16 The law relating to alienations by Heads of Mutts is clearly laid down in 18, Mysore Law Journal, 429 (Yellappa and others *vs.* Thippa Setty Mutt). So long as it is not proved that the tenancy did not arise prior to the grant of the Village to the Mutt, this proposition of law must prevail. But in the present instance, as has already been indicated, the persons in possession of the lands and their predecessors in title have been in enjoyment for a considerable period. Even after Survey Settlement, their rent has remained unchanged for long. It is admitted that improvements have been effected. There is evidence of transfers of tenancy which have not been questioned. The action of public authorities in

putting up the tenancy rights to sale affords also evidence of the public repute locally, even though the Mutt itself was not a direct party to such proceedings. Lastly, the law on the subject has been changed subsequent to the Government Order of 1889 by the Mysore Religious and Charitable Institutions Act of 1927, Section 30 of which makes specific provision recognising alienations which are made with the previous sanction of Government. This provision did not exist in the Mysore Muzrai Regulation VI of 1913. This new provision of law was purposely designed to cover hard cases like the present one. The case of Vidyavaridhi *vs.* Balaswami Iyer, 44 Madras, 831, followed in Yellappa and others *vs.* Thippa Setti Mutt, was prior to the provision of law enacted in 1927.

17. In the above circumstances, equity demands that in the present case, the persons in possession as tenants for over half a century now should not be disturbed, nor should they get a title in law which they did not possess and which they cannot possess without sanction of Government, except on payment of proper consideration to the Mutt. Government accordingly direct that permanent tenancy rights should be conferred on these Appellants, on payment of a reasonable upset price to the Mutt, to be fixed by the Deputy Commissioner and reported to Government for sanction, having regard to the present value of the lands and also to the nature of improvements that have been effected in respect of each land by the tenants.

N. MADHAVA RAO,
Secretary to Government,
General Department.

To—The Muzrai Commissioner in Mysore.
The Deputy Commissioner, Hassan District.

Exd.—B. G. S.

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